

RE: GRANT AGREEMENT(GRANT NO. 003/AUF/CFP/RA//2013)

THIS GRANT AGREEMENT is between **AKIBA UHAKI FOUNDATION** of **P.O BOX 27611-00100 GPO NAIROBI, KENYA** of the one part; and **THE CONSUMER UNITY AND TRUST SOCIETY, CENTRE FOR INTERNATIONAL TRADE, ECONOMICS AND ENVIRONMENT (CUTS-CITEE)** of **P.O. BOX 8188-00200, NAIROBI, KENYA**; hereinafter referred to as “the Fund” and “the Grantee” respectively.

WITNESSETH AS FOLLOWS: Empowering marginalized Community groups for inclusive governance in Kenya’s health service delivery. To ensure equitable and quality health Service Delivery to the marginalized groups through Community Monitoring in Kenya.

Article 1: Object of the Contract

1. The Fund, as a proactive and innovative grant-making institution working to promote and strengthen human rights inclusive of social justice in East Africa, is desirous of supporting initiatives working towards the realization of social justice at the grassroots level and empowerment of the local communities to effectively interact with the state and other development actors towards reduction of societal inequalities and realization of their social and economic rights and the Grantee is an independent registered non-governmental organisation which works towards consumer sovereignty in the framework of social justice and equality within and across the Kenyan borders, and in the foregoing regard, the Grantee, intends to carry out a project titled, “*Empowering marginalised community groups for inclusive governance in Kenya’s health service delivery*” in Kisumu County, Kenya, towards ensuring equitable and quality health service delivery to the marginalised groups through community monitoring in Kenya.
2. THAT the Fund undertakes to provide financial support amounting to **Kshs. 850,000 (Eight Hundred and Fifty Thousand Kenya Shillings Only)** to the Grantee for the implementation of the stated Project as per the attached approved proposal and budget.
3. THAT the Grantee agrees to be bound by the terms and conditions specified in this Agreement and documents annexed thereto.

Article 2: Goal, Objectives, Activities and Expected Outcomes of the Funded Project

1. The **long-term goal** of this project is to ensure equitable and quality health service delivery to the marginalised groups through community monitoring in Kenya
2. The Specific Project **Objectives** are:
 - (a) To enhance/empower the participation of marginalized groups (women, PWDs, PLWHAs, vulnerable youths) in demanding better governance and social accountability of public health service delivery in Kenya.
 - (b) To enhance equitability and quality of Public Health Service Delivery through the use of a replicable community based health service monitoring model.
 - (c) To establish challenges and constraints bedeviling the delivery of quality public health services and equitability in the distribution of resources in the rural public health centers in Kenya.
3. The Project will be carried out for **Six (6) Months** from **June 1, 2013 to November 31, 2013** in **Kisumu County, Kenya** and shall involve the following **activities**:-
 - (a) **Budget Analysis**: Annual budget for delivering public healthcare service in the country for the last five years will be analyzed to understand the nature and extent of allocation and corresponding expenditure – to understand whether they are as per priority needs of various consumers groups. Other than a quantitative analysis (including a disaggregated analysis of revenue and capital expenditure), there will be a qualitative



analysis of factors such as who decides budgetary allocation and expenditure, how they are decided, existing parliamentary and departmental (including at the institutional level of local governance) accountability mechanism on allocation and expenditure and how effective that mechanism is.

- (b) Citizens' Report Card: The Citizen Report Card (CRC) is a simple but powerful tool to provide public agencies with systematic feedback from users of public services. By collecting feedback on the quality and adequacy of public services from actual users, CRC provides a rigorous basis and a proactive agenda for communities. This report card will be generated by asking the community members about perception/level of satisfaction on various services delivered at the PHCs. A random sample of users of public healthcare services in the chosen district/community in the country will be selected to score different attributes of those services with respect to a time horizon (means past (say two and five years back) and present) and what do they want to do to improve their quality. Therefore, regular users of public healthcare services in the study area will be targeted for this purpose. A sample of about 200 users will be used for the purpose of this analysis.
- (c) Interviews with potential beneficiaries, Policy Makers and Practitioners: Some informal interviews and meetings with potential beneficiaries (like women who are pregnant or have undergone childbirth in the recent past, or those with small children) to understand the community members' experiences and problems faced, as well as assess the extent to which key services are being delivered effectively. A selected number of policy makers and practitioners will be interviewed to understand their views and concerns about improving the governance and social accountability of public healthcare service delivery in Kenya. These interviews will focus on what steps that they think should be taken to improve the quality of public healthcare service delivery in the country.
- (d) Community-focused monitoring training workshop: Community participation is essential for demanding better governance and social accountability of public health service delivery. A number of models for better community participation to enhance the quality of public service delivery that exists in different parts of the world will be discussed. The community- focused monitoring training will target marginalized district/community and ethnic minority there in identified poor women, persons with disabilities (PWDs), people living with HIV/AIDs (PLWHAs) from these marginalized communities, youths, SHG members, elected representatives etc. There will be discussions on the application of social accountability tools based on examples of good practices from other countries. Lessons will be drawn from those models and from the experience of CUTS International's work on this subject in India and other parts of South Asia. A number of information, communication and education (ICE) materials such as a poster demanding better governance and accountability in the delivery of quality and equitable public healthcare service will be printed and distributed during this workshop and also in other meetings.
- (e) Citizen monitoring card: The recipients of the community focussed training will eventually form part of the monitoring cell and will be engaged /incorporated in the implementation of citizen monitoring card. This Citizen monitoring card will be developed and tested for finalization during the training meeting. This card will be used for noting down the absence/ presence of services at the PHCs during the survey. All the services people are entitled to get at a PHC will be mentioned in the Citizen Monitoring Card.
- (f) District Level Dissemination Meeting: Based on the results of budget analysis, citizen monitoring card and citizens' report card, and by drawing lessons from community-focused capacity building workshop a report on the state of public healthcare service delivery in Kenya will be prepared. This report along with other documents will be published and disseminated at a public meeting at the district headquarter. Among others, parliamentarians and media personnel will be invited to this public meeting.
- (g) Advocacy for Policy & Practice Changes: Based on the above-stated report, a document focusing on necessary policy and practice changes to improve the state of public healthcare service delivery in Kenya will be prepared. Furthermore, an implementable model to enhance the quality of governance and social



accountability (including but not just through better community participation) of the delivery of public healthcare service in Kenya will be prepared and documented. A memorandum based on key messages and associated action points will be prepared and submitted to the Office of the President of Kenya, the Ministries of public and medical health, the local government and other such institutions associated with the delivery of public health services in Kenya.

- (h) Project monitoring, evaluation and reporting (both financial, narrative and audio-visual reporting) as provided under Article 4 herein.
4. The **Expected Outputs** of the Project are:
- (a) Social accountability Training Report developed
 - (b) Health service delivery model developed and shared with stakeholders
 - (c) A memorandum based on key messages and associated action points developed and shared with relevant duty-bearers
 - (d) State of Rural Public Health Service Provision in Kenya Report developed and shared with relevant duty-bearers and other stakeholders.
5. The **Expected Outcomes** of the Project are:
- (a) Enhanced capacity and increased participation of marginalized women, youths and the disabled persons in the governance process in health service provision.
 - (b) Enhanced vigilance of community members and accountability in leadership and better quality service delivery in Kenya's health sector.
 - (c) Enhanced equity, quality and focus of health service delivery and resources to the needs of the marginalized and vulnerable community groups.
 - (d) General reduction in the mortality rate and increased productivity.
 - (e) Better reflection on the specific priority needs of marginalized groups including disabled, youths and women in the national budgetary allocation and corresponding expenditure.
 - (f) Improved quality information on health care services in Kenya.
6. The key Indicators of success (including some means of verification) shall be:
- (a) Feedback from beneficiaries.
 - (b) Progress on report on the state of public healthcare service delivery in Kenya
 - (c) Disclosure of entitled/available services and facilities (including stock of medicine etc.)
 - (d) Existence of model for replication
 - (e) Increased/regular attendance of staff at PHCs
 - (f) Availability of services at PHC measured through end evaluation
 - (g) Increase in number of patients treated
 - (h) Reports on the policy debates on the inclusion of marginalized groups in health sector governance at parliament level
 - (i) the change in policies to address the identified gaps in the delivery of services
 - (j) Progress on research activities including Budget analysis, CRC
 - (k) Media highlights, interviews et al

Article 3: Budget and Payments of Approved Grant

The attached approved proposal and budget presented by the Grantee forms the basis for this Contract. The Fund shall make available the approved sum of **Kshs. 850,000 (Eight Hundred and Fifty Thousand Kenya Shillings Only)** to the Grantee to carry out the activities outlined in Article 2(3) above and in the annexed approved proposal and budget. The approved grant sum shall be paid out to the submitted Grantee's bank account in **Two (2) tranches** as



follows:

- (a) **50% payment** amounting to **Kshs. 425,000 (Four Hundred and Twenty Five Thousand Kenya Shillings Only)** to be paid out upon due execution of this Agreement. The Grantee shall be required to make a formal request in writing for the transfer of the funds;
- (b) a **final 50% payment** amounting to **Kshs. 425,000 (Four Hundred and Twenty Five Thousand Kenya Shillings Only)** to be paid out upon **receipt from the Grantee and approval by the Fund of the Interim Project Narrative Report and Interim Financial Report** to be submitted by **August 1, 2013** detailing activities undertaken and expenditures made as well as any other report annexes and project outputs as may be provided for under this Agreement.

No variances shall be made on the budget without the Fund's approval in writing.

Article 4: Narrative and Financial reporting

1. The Grantee shall submit an **interim financial report** half-way through the implementation of the project, that is no later than **August 1, 2013**, covering expenditures on project activities undertaken. In addition, the Grantee shall submit one **Final Financial report** by **December 1, 2013** covering expenditures on project activities undertaken in the approved accounting report format. The financial reports should reflect expenditures, in the currency of the contract-Kenya Shillings, according to the line-item categories of the attached approved Budget with a clear indication of the specific budget line items the Fund's monies were used for, and include a statement by the responsible financial officers of both the Grantee (and the Fiscal Host, where so applicable) certifying the accuracy of the report. In addition, the **interim financial report is to be accompanied by scanned copies of all documents of expenditure (including but not restricted to receipts, invoices, delivery notes and contracts)** while the **full financial report is to be accompanied by all original documents of expenditure (including but not restricted to receipts, invoices, delivery notes and contracts)** made under this funding, the copies of which shall be kept by the Grantee. Where the funded project costs include auditing costs, the Grantee shall submit a certified audit report for the funded project at the same time while submitting the final project reports or in such time as shall be agreed between the Parties in writing.
2. For the avoidance of doubt, the sole responsibility of accounting for the funds disbursed under this contract shall, at all material times, be borne by the Grantee (and the Fiscal Host, where so applicable).
3. The Grantee will also be expected to submit an **Interim Project Progress Report (Narrative) and a Final Project Report (Narrative)** at the same time while submitting the interim and final financial reports respectively, that is no later than **August 1, 2013** and **December 1, 2013** respectively. The Project Progress (interim) and Final Reports shall capture the following details: The funded Project's Goal and Objectives, Reporting Period, Geographical Area of implementation, Summary of activities implemented within the Reporting Period, the Progress made towards the project goal and the objectives that have been realised, overview of project results attained (what has changed or is changing as a result of the project interventions measured alongside the set quantitative and qualitative indicators of success including number of people reached directly and indirectly by the project), statement of challenges/problems faced in the implementation of the project and measures taken to address them, lessons learnt that may be useful to the grantee or more broadly to the Fund as well as any recommendations to be made on the sustainability of the Project and any other information that the Grantee wishes to report on. In addition to the foregoing, the Grantee in the Final Project Narrative Report, should indicate what follow-on activities it foresees or intends, to undertake at the close of the Project and what support the Fund can provide in the implementation of the follow-up activities.
4. In addition, the the Project Narrative Reports should be accompanied by attachments of any documentation of Project Outcomes/Results/Impact indicator data as annexes to the report including but not restricted to media reports, meeting reports, beneficiaries feedback, success stories, IEC materials distribution reports, photos as well as project monitoring and evaluation reports (as is relevant to the Project). In addition, the Grantee shall submit at least soft copies of any Audio-Visual

documentation (videos) produced during the project implementation in DVD format.

5. The Fund shall retain the right to make and disseminate additional copies of the Grantee reports and other project outputs submitted under this Grant and the Grantee hereby irrevocably grants to the Fund a license to disseminate on the Fund's website or any other media any reports and other project materials produced by the Grantee under this Grant. The grantee further irrevocably grants the Fund the right to publicise the Project activities and any outcomes thereof in any media of its choice.

Article 5: Contracting and procurement

All funds supplied to the Grantee shall be used only for the purposes stated in the approved Project Proposal and Budget annexed hereto. Contracting and procurement for any goods and services under the funded Project shall be conducted transparently and shall follow the internationally accepted contracting and procurement regulations and procedures and also the Fund's Procurement Policies/Guidelines, to be availed to the Grantee on request. Where necessary, the Fund may attend the Grantee's procurement committee meetings relevant to the Project or request information on any such meetings.

Article 6: Anti-Corruption Clause

Subject to the provisions of the Fund's Procurement Guidelines and any applicable Kenyan law, no offer, gift or payment, consideration or benefit of any kind, which constitutes an illegal, fraudulent or corrupt practice shall be made to any person, either directly or indirectly, as an inducement or reward for the award or execution of this contract or in the implementation of the funded project.

Article 7: Right of Inspection

The Fund shall at all material times possess the right, either by itself or through any third party appointed by it, possess the right of inspection as well as audit of any records material to this funding and to monitor and evaluate the implementation of the Project activities, either by itself or through any third party appointed by it for such purposes.

Article 8: General Provisions

- (a) The Grantee undertakes to carry out the stated Project activities with due care and diligence and at all material times shall safeguard the interests of the Fund.
- (b) The Grantee shall duly inform the Fund immediately and in writing of any exceptional circumstances arising during the carrying out of the funded Project which may endanger its realisation and/or require substantial modification of its stated objectives and outputs. Where it becomes necessary to modify or alter certain elements of the project, the Grantee shall submit a grant amendment or modification request to the Fund and such modification/amendment/alteration shall only be permissible once so authorised by the Fund in writing.
- (c) The Fund shall be liable only to the Grantee and will not be liable for any expenditure incurred which exceeds the approved budget costs without any written approval.
- (d) The Fund will not be liable to any third party in respect of any claim, debt, damage or demand arising out of the implementation of this project and which may be made against the Grantee.
- (e) The funds provided for this Project will not be used towards supporting, facilitating, participating in, or intervening in, propaganda, acts of violence and negative political campaigns on behalf of any candidate for public office.

Article 9: Liaison/Contact Persons

The primary Liaison/contact persons for the duration of this contract shall be:

- (c) **Kepta Ombati**, the Program Coordinator, on behalf of the Fund.
- (d) **Clement Onyango and Daniel Asher**, the Center Director and Programme Officer, on behalf of the Grantee.

Article 10: Amendments

No amendments shall be made to this Contract unless with the mutual consent, in writing, of both parties.

Article 11: Confidentiality and Intellectual Property Rights

The ownership and title to copyright, patent, trade secret, trademark and any other intellectual property or proprietary rights ("Intellectual Property Rights") of whatever nature in and to the work arising under this Project, whether vested, contingent or future, shall be owned by the Grantee. However, the Fund shall enjoy a perpetual, non-exclusive, worldwide, royalty-free license to use, reproduce, adapt, publish, publicly perform, display and distribute the work or any part thereof, including the right to grant corresponding sub-licenses to third parties, for the purpose of carrying out its not-for-profit work.

All reports and such other outputs or information divulged by the Fund to the Grantee during the subsistence of this Agreement are privileged and shall not be disclosed to any third or other party by the Grantee or its agents save with the express written permission of the Fund. The Grantee, its agents and the persons contracted for the Project shall use all reasonable precautions to prevent any unauthorized person from having access to confidential information relating to or arising from the work and shall not at any time without written permission, during or after the term of this Agreement, divulge or use, whether directly or indirectly, any confidential information relation to the affairs of the Fund.

Article 12: Project Branding, Disclaimer Notice and Acknowledgement of the Fund's Support by the Grantee

Whereas the Project branding and publicity shall be left to the discretion of the Grantee, the Grantee agrees that all the outputs of this Project shall give due recognition and acknowledgement to the financial and other support from the Fund and in particular that any published reports/books (if to be produced under the Project Funds) shall prominently bear, on the lower side of the cover page, the Fund's logo and the words "*Produced with Support from Akiba Uhaki Foundation*" or whichever other words as shall be agreed between the parties herein. On audio-visual (video) documentaries produced with the Fund's support, the Grantee shall insert (at the cover and either at the beginning or at the end of the Documentary), the Fund's logo and the words "*Produced with Support from Akiba Uhaki Foundation.*"

On any written or audio-visual publications/documentaries produced with support from the Fund, the Grantee shall provide the following Disclaimer Notice "*This documentary/publication/report (whichever is relevant) was made possible through support provided by Akiba Uhaki Foundation. The view/opinions expressed herein are those of the author and do not necessarily reflect the views of Akiba Uhaki Foundation.*" This disclaimer shall be inserted immediately after the cover page of the report or publication or at beginning of the Documentary.

The foregoing attribution of the Fund's support and Disclaimer notice shall also be displayed prominently and with similar wording on the Grantee's website, audiovisual materials and any other of its communication materials, unless agreed otherwise.

The Fund's logo and branding guidelines shall be availed to the Grantee on request.

Article 13: Annexes and Legal Construction

The Grantee's approved Proposal, the Monitoring, Evaluation and Learning (MEL) Plan and the Budget attached to this Contract shall constitute part of the terms and conditions agreed to by the parties under this Contract and shall be deemed part of this Contract. However, for the avoidance of doubt, in case of any conflict, the present Contract shall take precedence over the other annexed documents forming part of this Agreement. This Contract shall also supersede all previous agreements (if any) whether oral or written between the parties in respect of such matters.

In the event that any or more of the provisions contained in this Contract shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or enforceability shall not affect other provisions hereof, and this contract shall be construed as if such invalid, illegal or unenforceable provisions had never been contained herein.



Furthermore *in lieu* of such invalid, illegal or unenforceable provision, there shall be added automatically as part of this Agreement, a provision as similar in terms to such invalid, illegal or unenforceable provision as may be possible and valid, legal and enforceable.

All clause and paragraph headings herein are inserted only for convenience of reference and are not to be considered in the construction or interpretation of any provision of this Contract. Further, references to any Party hereto or their respective representatives, shall, where relevant, be deemed to be references to, or to include, as appropriate, their respective heirs, executors, administrators, permitted personal representatives, successors or assigns.

Article 14: Termination

The Fund and/or the Grantee may terminate this Contract if either party is in material breach of the provisions of this Contract and is unable to satisfactorily resolve them within reasonable time. Termination shall be made by a notice in writing. In the case of termination, the Grantee or the fiscal host (if applicable) shall promptly return any unexpended balance of the monies to the Fund within 7 days of the termination together with a full financial and narrative report. In case where the Fund is of the view that the Project funds have been misused or fraudulently expended, the Grantee (jointly with the Fiscal Host where so applicable) shall be required to refund all such monies deemed misused or fraudulently expended or expended for purposes outside the Funded activities within 21 days of the service of the termination notice together with a full financial and narrative project report.

Article 15: Jurisdiction and Governing Law and Dispute Resolution

- (a) This Agreement shall be governed and interpreted according to the Laws of Kenya. If a dispute arises between the Parties (the "Dispute"), the Parties agree to negotiate in good faith to resolve the Dispute and will refer resolution of the Dispute by negotiation to their respective key contact persons or where necessary their chief executive officers or their nominees.
- (b) In case of a dispute between the said Parties and arising out of the Agreement herein, if the parties are unable to reach a mutually acceptable self-negotiated settlement within 30 days, then any one or both of the Parties shall be entitled to refer the dispute for Arbitration. A single Arbitrator shall be appointed by Agreement jointly between the Parties and, failing agreement, by the President for the time being of the East African Court of Justice (EACJ) and in appointing the Arbitrator due regard shall be had to the nature of the dispute, the experience of the person arbitrating proceedings and affordability. Such arbitration shall be conducted in Nairobi, Kenya or such as other venue as shall be agreed between the Parties and resolved in accordance with the East African Court of Justice Arbitration Rules, 2002 or any amended version thereof for the time being in force and the decision shall be binding upon both parties to the extent permissible by law. The parties submit irrevocably to such exclusive jurisdiction of the East Africa Court of Justice(EACJ).
- (c) Nothing in this clause will prevent a Party from seeking interlocutory relief through courts of appropriate jurisdiction
- (d) Each Party will bear its own costs of arbitration and other legal costs in proceedings undertaken under Article 15 herein. However, the costs of the appointed Arbitrator will be shared equally by the Parties to the Arbitration.

Article 16: Warranties and Disclaimers

Each party represents and warrants to the other that it has full power, authority and legal capacity to enter into a contract of this nature, that it has taken all necessary corporate and legal actions to enable it enter into and perform its obligation under this Contract and the individuals executing this Contract on behalf of each Party have been fully empowered to execute this Contract on behalf of such Party.

IN WITNESS WHEREOF this Contract has been executed by the parties as hereunder and that the Parties acknowledge that they have read and understood the provisions of this Contract before signing it, that they have had the full opportunity to obtain independent legal or other advice as may have been required.

SIGNED on Behalf Of:
THE CONSUMER UNITY AND TRUST SOCIETY,
CENTRE FOR INTERNATIONAL TRADE,
ECONOMICS AND ENVIRONMEN (CUTS-CITEE)



.....
CLEMENT ONYANGO
DIRECTOR

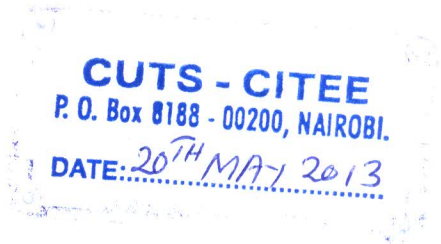
DATE: 20TH MAY 2013

WITNESSED BY:



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DANIEL ASHER
PROGRAMME OFFICER

DATE: 20TH MAY 2013



SIGNED on Behalf Of:
AKIBA UHAKI FOUNDATION

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KEPTA OMBATI
PROGRAM CO-ORDINATOR

DATE:

.....
EZRA MBOGORI
EXECUTIVE DIRECTOR

DATE: