

Controllo n. 38/22  
del 8/8/22



*Agenzia Italiana  
per la Cooperazione allo Sviluppo*

NAIROBI OFFICE

**FIXED TERM PRIVATE- LAW CONTRACT OF EMPLOYMENT  
GOVERNED BY THE LOCAL LABOUR LAW (Employment Act of 22  
October 2007) IN ACCORDANCE WITH THE FUNDAMENTAL  
PRINCIPLES OF ITALIAN LAW**

**BETWEEN**

the Italian Agency for Development Cooperation (hereinafter referred to as "AICS")  
– overseas Office of Nairobi, fiscal code no. 97871890584, represented by Fabio  
Melloni, director of the Office, in the framework of the Programme called  
"Partnership between the EU and the Government of Kenya to advance the Blue  
Economy Agenda through Coastal Development – "Go Blue" - Italian Cooperation  
Component" - FED/2020/419-534 (hereinafter referred to as the "Programme")  
funded by the European Union.

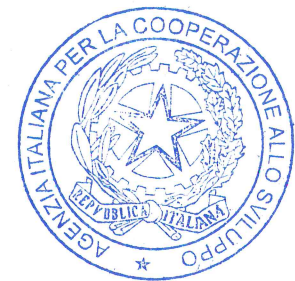
**AND**

Mr. MWANZEI MWEU ALI (hereinafter referred to as the "Employee"), citizen  
[REDACTED]

And, jointly, The Parties"

**WHEREAS**

- Pursuant to Art. 17, of Act no. 125 of 11th August 2014, hereinafter called the Constituent Law, the Italian Agency for Development Cooperation is constituted (hereinafter called AICS) as a public corporation, subject to the direction and supervision of the Minister of Foreign Affairs and International Cooperation;
- In compliance with Art. 9 of Ministerial Decree no.113 of 22nd July 2015, known as the Statutes of the Italian Agency for Cooperation Development, which provides for, according to the procedures laid down in Article 17, paragraph 7 of the Constituent Law, the establishment of AICS Overseas Offices;
- The overseas Offices manage cooperation initiatives and their relative resources within the limits laid down in Art. 17, paragraph 3, of Act



- 125/2014;
- the Delegation Agreement n. FED / 2020 / 419-534 for the implementation of the AICS component of the Program, signed by the Deputy Director of AICS, Leonardo Carmenati, on 23/12/2020;
  - With a Decree of the Deputy Director of the Agency no.5 of 12/01/2021 the responsibility of the Programme management was transferred to the Director of the AICS Office in Nairobi;
  - The Director of the office has identified the need to use the services of an Technical Advisor;
  - following a comparative procedure in the records of the AICS overseas office in Nairobi, Mr. MWANZEI MWEU ALI has been selected as the winner, having also been found to meet the requirements for the fulfilment of the employment contract;
  - the employee has expressly accepted an offer of employment on a fixed-term basis from the director of the office;

**IT IS HEREWITH AGREED AND STIPULATED AS FOLLOWS:**

**ARTICLE 1**

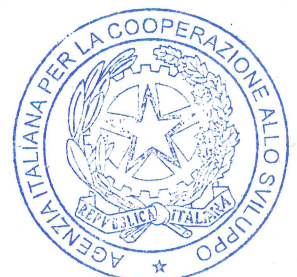
1. The preamble and the Annexes shall constitute an integral and substantial part of this contract.

**ARTICLE 2  
CONTRACTUAL DUTIES AND PLACE OF WORK**

1. Mr. MWANZEI MWEU ALI shall be employed as a Technical Advisor, to carry out the duties clearly defined in the attached terms of reference (Annex 1).
2. The employee shall be answerable, for administrative and disciplinary purposes, to the director of the AICS overseas office in Nairobi.
3. The employment services shall be provided at the cooperation programme Office for "Go Blue" located in Mombasa (Kenya).
4. In extraordinary cases of confirmed emergency situations, AICS may authorise the employee to perform his services on a flexible basis.

**ARTICLE 3  
COMMENCEMENT AND DURATION OF CONTRACT**

1. This contract shall be drawn up on a fixed term basis for a period of twelve months, from 16<sup>th</sup> August 2022 to 15<sup>th</sup> August 2023.
2. This contract shall not give rise to any form of public service employment between AICS and the employee, and neither shall it fulfil of a permanent job.
3. The worker is subject to a two-month probationary period of actual work. Passing the test, formally certified with a written report from the holder of a foreign office, is a condition for the continuation of the contract.
4. During the trial period, both parties can freely terminate the employment relationship with at least a week's notice to the other party; the notice period can be replaced with the payment of the relative indemnity in lieu.



5. The contract may be terminated at any time by the director of the overseas office, giving reasons, in the event of a serious breach of the obligations arising from the employment contract.

6. Subject to authorisation by AICS Rome, the director of the overseas office may terminate the contract in the event of early termination or reduction of project activities, as well as for any other cause incompatible with the continuation of the employment services.

#### **ARTICLE 4 REMUNERATION**

1. Mr. MWANZEI MWEU ALI shall receive a total net monthly salary of Euro 3,500.00 (Three thousand five hundred Euro).

2. The employee shall mandatorily make the payments due to the Revenue Authority and shall undertake to self-certify the regularity of his tax position with regard to his employment income.

3. The net salary, to be paid monthly at the earliest on the 27th day of each month, shall be inclusive of any other allowance payable under local law. The net salary will be paid by bank transfer to the bank account communicated by the employee (annex 2).

#### **ARTICLE 5 SOCIAL SECURITY SCHEMES**

Pursuant to the local law, the employee shall be insured for disability, old age and surviving dependants with NSSF (National Social Security Fund).

The annual contributions, calculated as a percentage of the gross annual basic salary, shall be divided between the contracting parties.

Variations in these contributions resulting from changes in local law or remuneration will be applied automatically by the overseas office.

#### **ARTICLE 6 HEALTH INSURANCE**

1. In the event the local law does not guarantee any form of mandatory health insurance, or, in any case, clearly insufficient, private insurance coverage can be provided within the limits of assistance guaranteed in Italy by the National Health Service. The policy shall also be valid for the dependent cohabiting spouse and children up to the age of 26, provided they are cohabiting and dependent. It shall behove the employee to prove that he meets the requirements for extending this coverage to family members.

2. The health care of the worker will be insured, as provided by the local legislation, by the NHIF Local Health Authority. The Overseas Office shall pay the contributions, if due, according to the provisions of the local legislation.

3. In view of the fact that compulsory health care is considered to be insufficient, the employee shall be granted an insurance policy with Waumini Insurance Brokers Ltd., the annual premium for which, as shown in Annex 4 and which forms an integral part of this contract, shall be borne entirely by the Office.

4. The annual premium shall be reimbursed to the employee in addition to the salary for the month of September 2022, in compliance with the maximum amount of € 1,330.24 pro rata per annum (equivalent to 85% of the insurance policy granted to AICS employees and stipulated within the framework agreement between AICS Roma and RBM of the Intesa San Paolo Group).



#### ARTICLE 7

#### INSURANCE AGAINST ACCIDENTS AT WORK AND OCCUPATIONAL DISEASES

1. The employee shall be insured against accidents at work and occupational diseases under the cover of the Work Injury Benefit Act (WIBA) drawn up through a private insurance company.
2. The employment contract shall be terminated in the event of permanent disability to perform the contractual duties.

#### ARTICLE 8

#### BUSINESS TRAVEL

For business travel that has been authorized in advance by the director of the overseas office, the employee shall be entitled to receive a per diem of Euro 80.00 per day to cover the expenses of food and accommodation, and within the limits prescribed in the Regulations applied to AICS personnel.

#### ARTICLE 9

#### LEAVE

1. The employee shall be entitled to a period of annual leave equivalent to 32 working days per annum.
2. Moreover, the employee shall be entitled to paid public holidays in compliance with the calendar of the overseas Office.
3. In the event the local law provides for paid public holidays that are not included in the office's calendar, the employee shall be able to benefit from these by availing himself of the leave days mentioned in the first paragraph of this article.
4. In the event the local law provides for a number of paid public holidays that exceed those provided for by the overseas office's calendar, the employee shall be able to benefit from these against a corresponding reduction of the leave days mentioned in the first paragraph of this article.
5. The employee shall not be able to waive his entitlement to leave and there shall be no provision for payment of unused leave.

#### ARTICLE 10

#### SICK LEAVE

1. In the absence of a more advantageous local law, in the event of illness, the employee shall be entitled to a total leave of 60 days per year (i.e. calendar year), of which the first 45 shall be fully paid, whereas the subsequent 15 days shall be paid one fifth less.
2. Should the above period of 60 days be exceeded, the director of the overseas office may proceed to terminate the contract of employment, unless the local law is applied, if more favourable.
3. For serious personal or family reasons, the employee shall be authorized to take unpaid absence from work for a period not exceeding twenty days per year.



## **ARTICLE 11 MATERNITY AND PATERNITY LEAVE AND REST DAYS**

The legal and economic conditions for maternity and paternity related leave and rest days in respect of legitimate and natural children, as well as adopted and foster children, shall be governed by the Italian law in compliance with Legislative Decree no. 151 of 26 March 2001 and subsequent amendments and additions.

## **ARTICLE 12 (DAYS OF PAID LEAVE)**

The employee shall be entitled to take the following days of paid leave, to be duly documented, for the reasons set forth below:

- 8 days per year for participation in competitions and examinations, limited to the days of the tests.
- 3 days of bereavement for the death of a spouse, relatives within the second degree (parents, siblings, grandparents, children, grandchildren), first degree relatives-in-law (in-laws, sons-in-law, daughters-in-law). The three days shall be granted for each mourning event, shall be taken consecutively and shall also include holidays and non-working days that fall within the same period.
- 3 days leave for personal or family reasons, duly documented.
- 15 consecutive days for marriage to be taken within 30 days of the event. This period shall be taken consecutively and shall also include holidays and non-working days that fall within the period itself.
- Other days of paid leave in accordance with specific provisions of the local law.

During these periods, the employee shall be entitled to full pay excluding compensation for overtime, allowances related to particular working conditions and those that are not paid for twelve months.

## **ARTICLE 13 WORKING AND SERVICE HOURS**

1. The employee shall work 36 (thirty-six) hours per week, spread over 5 working days.
2. For special service needs, the director of the overseas office may request the employee to extend his working hours beyond the normal working hours, subject to compensatory rest.
3. No provision shall be made for overtime benefit payment.

## **ARTICLE 14 DUTIES OF THE EMPLOYEE**

1. The employee in the performance of his duties has the obligation to: show loyalty; perform his work with the utmost diligence in carrying out the tasks entrusted to him; behave with particular discretion and confidentiality, respecting the secrecy of the office; conform in his working relationships to the principles of assiduous and diligent collaboration; behave at all times in a manner consistent with the prestige of the office and such as to establish relationships of trust; adapt his conduct, including private conduct, to the most rigorous principles of discipline, correctness and decorum; comply with the laws and local customs also with regard to residence and work permits.
2. The employee shall not be entitled to exercise any other professional activity,



whether self-employed or as an employee.

3. The employee shall, in any case, comply with the obligations of conduct set forth in the Agency's Code of Ethics and Conduct ([https://www.aics.gov.it/?page\\_id=8828](https://www.aics.gov.it/?page_id=8828)), which must be signed for acknowledgement.

## **ARTICLE 15 VIOLATIONS AND DISCIPLINARY ACTIONS**

1. The employee shall be issued with a verbal reprimand and, in case of recurrence, a penalty of warning for minor violations of office duties such as for example:

- non-compliance with service regulations;
- conduct that does not comply with principles of propriety;
- unsatisfactory performance;
- behaviour not in keeping with the decorum of his duties.

2. The employee shall be suspended from work with no pay up to a maximum of 10 (ten) days in the event of multiple recurrences of violations mentioned in the previous paragraph.

3. For more serious cases, the contract shall be terminated according to the provisions stipulated in Article 16 hereunder.

4. In the cases provided for in the preceding paragraphs, with the exception of the verbal reprimand, the imposition of disciplinary actions shall be preceded by a written notification of the charge, which must take place within thirty days of knowledge of the violation. The employee shall be convened to provide his justifications with the assistance of an attorney of his choice. In lieu of the hearing, the employee shall be entitled to deposit a written statement.

## **ARTICLE 16 TERMINATION OF CONTRACT**

1. This fixed term contract may be terminated by the employee with a notice of 30 days, without prejudice to the possibility of reducing this period with the consent of the director of the overseas Office.

2. The work performed by the employee shall be subject to evaluation by the director of the overseas office.

3. The director of the overseas Office, upon consultation with AICS headquarters, shall be entitled to terminate the contract supported by a substantiated decision sent to the party concerned, for the following reasons:

- a) professional incompetence;
- b) Recurrence of violations mentioned in the second paragraph of Article 15 of this contract;
- c) Absenteeism without valid justification for a number of days, albeit non-consecutive, exceeding three over a period of two years;
- d) False claim of presence at work;
- e) Persistent unsatisfactory performance, or rather any whatsoever serious fact which proves total incompetence to adequately fulfil work obligations;
- f) Conviction by final judgment for a crime which was committed outside the place of work and not directly connected to the current contract but which does not allow the continuation of this contract due to its specific gravity;
- g) Reduction in personnel or closure of the overseas office and/or early termination of the project;



h) In the event of ascertained permanent disability to carry out contractual duties;

i) In the event of violation of the AICS code of ethics and conduct.

4. For cases of termination of contract for reasons mentioned in the above paragraph, the overseas Office shall be bound to provide a thirty-day prior notice. In lieu of said notice, the overseas office may make provisions, subject to authorization from the Agency, to pay an indemnity corresponding to the entire remuneration due for the period of failure to give prior notice.

5. In the event the period of prior notice is not observed by the employee, the overseas office shall arrange to recover outstanding sums from any due entitlements belonging to the employee for the period corresponding to the failure to give prior notice.

6. No prior notice shall be necessary in the following cases leading to immediate termination of the contract:

- a) Perpetration of serious illegal acts at work of criminal relevance;
- b) De jure altercations vis à vis other employees or third parties;
- c) Proof that the work was carried out by producing false documents or at any rate through fraudulent means;
- d) Perpetration in general of malicious acts or facts of such gravity as not to allow the continuation, even provisional, of the employment contract;
- e) Conviction which has the force of res judicata for offences in Italy entailing permanent disqualification from holding public office;
- f) Failure to meet the subjective and objective requirements for employment, including the expiry of the residence and/or work permit.

7. For the cases mentioned in this article, the termination of the contract shall be preceded by a written notice of the charge that must be produced within thirty days of the knowledge of the misconduct. The employee shall be convened to be heard with a notice of at least 20 (twenty) days to allow him to provide his justifications and entitled to do so with the assistance of a trusted attorney. In lieu of attending the hearing, the employee may file a written statement.

## ARTICLE 17

### EXPRESS TERMINATION CLAUSE AND FORCE MAJEURE

1. In the event of a force majeure event, which could neither have been foreseen nor prevented by the exercise of ordinary diligence, such as, merely by way of example, a situation of insecurity or danger to personnel, natural disasters, epidemics and contagions, forced evacuations which prevent the regular performance of activities and which make it impossible to fulfil contractual obligations, this contract shall be considered terminated.

## ARTICLE 18 AGE LIMIT

Unless the local law provides for a lower limit, this contract shall end on the first day of the month following the reaching of 67 years of age, as required by the Italian law.



**ARTICLE 19**  
**APPLICABLE LAW AND COMPETENT COURT**

1. Except as otherwise provided in the provisions herein, the employment conditions governed by this contract shall be subject to local law.
2. Without prejudice to the provisions of general international and conventional law, the local court shall be competent to resolve any disputes that may arise from the application of this contract.

Nairobi, 18<sup>th</sup> July 2022

The Employee  
(MWANZEI MWEU ALI)



The Director of the Overseas Office  
(GIOVANNI GRANDI)

