



## Terms of Reference Green Growth Plan Jambi December 2017

### Background

IDH - The Sustainable Trade Initiative aims to improve the sustainability of international commodity supply chains. Specifically, IDH transforms supply chains so that they deliver, and adhere to, the public good, as defined in the Sustainable Development Goals (see: [www.idhsustainabletrade.com](http://www.idhsustainabletrade.com)). IDH is a multi-stakeholder platform in which actors from both consumer and production countries actively participate within clearly defined cooperative programs.

Within Indonesia, IDH is focusing interventions on four critical Provinces: Aceh, West Kalimantan, Jambi and South Sumatra. Within these provinces, IDH works with the public and private sector, particularly with forestry and estate-based crop businesses including palm oil, rubber, and coffee, to develop multi-stakeholder approaches and investable plans to avoid deforestation, peat subsidence, greenhouse gas emissions, protecting indigenous people and improving the prosperity and productivity of smallholders. The central concept for driving change in these landscapes is production-protection: using a combination of donor and commercial funding to support investments in improved production practices, in return for a delivery of conservation, protection and restoration targets beyond the concession boundary.

### Context

The province of Jambi is located on the island of Sumatra and has an area of 53,435.92 km<sup>2</sup> and 3.4 million inhabitants. Two thirds of the province are characterized by hilly lowlands with an altitude of less than 100m and of flood plains formed by Jambi's large river systems. The lowland hills are inclining steeply into the Bukit Barisan Range reaching 3,819 m. Most of Jambi's larger rivers have their headwaters in the Bukit Barisan Range and flow eastwards through the lowlands towards the coast. The coastal areas of Jambi are characterized by the Batang Hari River delta, flat marshlands and peat swamps.

The natural vegetation of lowland Jambi has been evergreen rainforest, peat swamp forest and mangrove forest. The MoEF (Ministry of Environment and Forestry) has classified 2,179,000 ha or 42.73 % of the provincial area as state forest, including 4 National Parks; Bukit Tigapuluh, Berbak-Sembilang, Kerinci Seblat and Bukit Duabelas. However, only 1,159,559 ha or 53% of these areas were actually covered with trees by 2016. The degradation of forest in Jambi Province has reached a worrying level as Jambi has experienced high levels of forest degradation as a result of commercial logging activities since the 1970s. More recently, as a result of agricultural expansion and open pit mining Jambi has lost 98,900 ha of forest per year between 1990-2000; 76,522 ha per year between 2006 and 2009; and 189,125 ha in total between 2012 and 2016. Jambi's high deforestation rate and the conversion of peat swamps lead to net annual GHG emissions.



The vast forest area has a high potential to benefit the environment as well as the local and national economy. Environmentally, the forest area has the potential to reduce greenhouse gas emissions. Since 2013 Jambi was one of Indonesia's REDD+ pilot provinces. The Strategy & Provincial Action Plan (SRAP) for REDD+, that covers the period from 2012 to 2030, provides the Provincial target to reduce the greenhouse gas emissions of more than 55 MT of CO<sub>2</sub>e from business as usual levels by 2030. As much as 86 percent, equivalent to 47.3 MT of CO<sub>2</sub>e is contributed from land and forest sectors. In addition, the current RPJMD that covers 2016-2021 aims to reduce deforestation rate by 50%.

The Local Action Plan for Greenhouse Gas Emission Reduction (RAD-GRK) focuses on intensifying agriculture in order to reduce the pressure on forest areas due to farm expansion. The SRAP and RAD-GRK both identify the importance of engaging with the private sector on the implementation of sustainable forest management practices. The commitment of the Jambi Provincial Government is expected to contribute to national efforts to reduce greenhouse gas emissions by 29 percent with national resources and up to 41 percent with the support of the international community by 2030.

The corner stone of Jambi's economy is the agriculture sector contributing to more than a quarter of the provincial GDP. Other relevant pillars of Jambi's economy are the exploitation of black coal, oil and gas. The most important agricultural commodities are rubber, oil palm, coffee and rice. The Provincial Government has committed to improve their natural resource management to be more fair and sustainable as reflected in its vision, Jambi Tuntas 2021.

The Governor of Jambi has requested IDH to support the development of a provincial Green Growth Plan to follow-up on the 2012-2030 SRAP, the existing Spatial Plan (RTRW) and the Medium Term Regional Development Plan (RPJMD), especially with stronger involvement of the private sector and more focus on inclusive economic development strategies for forest communities and smallholder farmers that can complement and strengthen the forest and peatland protection efforts.

### **The Green Growth Plan: function and characteristics**

The Green Growth Plan will form a provincial level roadmap, for land-use based sustainable economic development for the next 20 - 30 years for both public and private stakeholders – balancing economic, social and environmental interests and values. It would be a reliable source for improving the existing Government's plans such as RTRW, RPJMD within the Jambi Tuntas 2021. It should provide guidance to ongoing and new government, donor, and private sector investment in the production of renewable resources (agricultural and forestry commodities) and forest and peatland protection and restoration, while stimulating sustainable development of farmers and communities.

The Plan should be based on an analysis of the environmental and socio-economic effects of different growth scenarios including the existing plans' projection, for the agriculture, forestry and other land-use sectors. Based on the scenario analysis, the plan should set clear targets to achieve Green Growth and include guidance on how to achieve these in terms of strategies for strengthening the enabling (regulatory) environment at provincial and district levels, priority production and protection interventions and zoning/land-use planning, effective incentives and disincentives to change current land use and land use practices, and a clear definition of roles and responsibilities and required/committed budgets.



The environmental part of the plan should include clear quantitative and time-bound target against historic rates of gross deforestation, reflecting national targets, and a feasible strategy to reduce deforestation, forest and peatland degradation and increase restoration.

Given the fact that the Province has been a REDD+ pilot province since 2013 and hosting several conservation programs, there are a number of stakeholders (Donors and NGOs, but recently also private sector companies) that have already developed detailed forest and peatland conservation and/or restoration plans for specific areas in Jambi. A strong participatory and multi-stakeholder process in the development of this plan are crucial to ensure it would be embedded to the Provincial's plan. Since it would be developed on the previous plans and information that were developed for the Province and different sub-landscapes.

## Consultancy Description

### Develop a Green Growth Plan and Implementation Roadmap for Jambi Province

The focus of the consultancy work is to support the Government of Jambi and IDH in developing a Green Growth Plan and Implementation Roadmap at Provincial level. This would include the following components:

Specifically, it would include:

➤ **ITEM 1: Stakeholder mapping and engagement**

Given the existence REDD+ pilot, renewable energy and other conservation projects focusing at clean energy development, forest and peatland protection and restoration in Jambi, involving both NGOs and increasingly also the private sector, it is important that the consultant provides a detailed stakeholder map, including ongoing (and previous) projects and their strategies followed and already identify they key gaps, as well as the available information from the stakeholders that can feed into the Green Growth Plan Development.

The consultant should also use this stakeholder engagement phase to introduce/explain the objectives of the Green Growth Plan and design a process for continuous stakeholder engagement in the further development of the plan.

➤ **ITEM 2: Establish and review the existing baseline or Business as Usual Scenario**

- Compilation, and where needed refinement and completion of detailed and up-to-date physical mapping of the landscape. This baseline will draw upon the project work already undertaken by the stakeholders engaged as described under item 1.



The physical baseline mapping shall include:

- location of key components including palm oil mills and estates, renewable energy projects, forestry, rubber, pulp & paper mills and other concessions (where possible identifying areas with smallholders), peatland, forests (types of forests, including identification of location and size of HCS and HCV areas), infrastructure;
  - existing Government spatial planning data (RTRW and RPJMD) including identification of relevant zones (e.g. production Forest, protection Forest, urban development, planned infrastructure) as well as the Government's moratorium map to be provided as overlays;
  - high-level (low detail) land-use change analyses at provincial level in terms of forest/peat conversion and population expansion;
  - consolidated knowledge of the location of existing activities/works and their relevance and likely contributions to the green growth strategy, conducted by other stakeholders including Donors and NGOs;
  - peatland encroachment, identification of peat and hydrology zones and deforestation risk mapping.
- Impact assessment (KLHS) of current Provincial RTRW and RPJMD on the environmental and economical.
  - Assessment of the extent and severity of fires separated by those on peat soils and those on dry land mineral soils.
  - Assessment of current and projected greenhouse gas emissions, quality and quantity of forest and peatland areas based on business as usual scenario until 2030.
  - Assessment of historical and projected deforestation rate based on business as usual scenario until 2030.
  - Assessment of current and projected land-use based economic activities on income and employment generation (per household and per sector) and tax generation for the provincial and district governments, based on the business as usual scenario until 2030.

The long-term impact of the Business as Usual scenario requires impact modelling against key economic and environmental KPIs. The consultant may also choose to first complete item 3 (described below) and use the same KPIs for the Business as Usual modelling.

➤ **ITEM 3: Set Green Growth targets with key stakeholders in the Province**

Based on the output of component one, as well as on the (draft) targets for a sustainable landscape that Jambi Province has developed with IDH and other stakeholders, identify the key performance indicators (KPIs) for Green Growth in Jambi and set annual and 2030 targets per KPI in particular for reducing deforestation rate and GHG emission, a participatory process with relevant stakeholders. The consultant is suggested to work via the main existing governance and stakeholder groups that have been mapped as part of the activities under item 1 above.

➤ **ITEM 4: Develop Green Growth strategies and model the Green Growth Scenario**

- With the active participation of public, private and civil society stakeholders, develop strategies to achieve the targets set under item 3 and bundle these into one or more green growth scenarios. The one or more green growth scenarios should be compared with at least a scenario with full focus on renewable resources or commodity production; a scenario with full focus on forest and peatland protection; and the business as usual scenario developed under item 2. The scenarios should among others include:
  - Identification and prioritization of areas where GHG emissions occurring through deforestation and forest degradation, peat land subsidence and peat and forest fires can be reduced significantly. Identify conservation opportunities and their potential impact on reduced deforestation rate and GHG emissions.
  - Identification and prioritization of areas of economic development, through e.g. productivity enhancement or expansion. This may include the identification of (degraded) land available for 'relocating' agricultural and forestry production from sensitive areas near/in forests and on peat. The feasibility of these types of land swaps should then also be commented upon taking into account economic as well as technical considerations.
  - Legality identification of land-use in the landscape. This means identifying as far as possible specific locations where business activities such as cultivation is occurring on legally protected land, where plantations have been established in incorrect zoning, and then identifying the required policies and actions to overcome these issues.
  - A high-level calculation of the financial costs and benefits of the different elements of each scenario.
  - Recommendations and justifications for scenario selection need to be documented.
- Ex-ante impact modelling of the green growth scenario(s) on the KPIs set under item 3. Examples of KPIs include tax, business and household income, employment, GHG emissions, water flows, etc. The relations between the investments in priority interventions and the socio-economic and environmental impacts should be one of the outcomes of the modelling exercise.
- Provide a summary comparison of the different scenario(s), also including the business as usual scenario developed in item 2.

➤ **ITEM 5: Translate the Green Growth Strategies/Scenario to a Spatial Plan and Roadmap For Action**

Based on the outcomes of the scenario modelling, synthesize ongoing and new initiatives and investment plans into a holistic Green Growth Plan including:

- time-bound targets on the key performance indicators, based on the outcomes of items 3 (target setting), 2 and 4 (scenario modelling);



- realistic strategies, including time-bound milestones, for achieving the targets, building on priority (commodity) production and (forest and peatland) protection interventions;
- recommendations for key policy, spatial planning and institutional changes required at provincial and district levels and where applicable at national level;
- recommendations for improvement of current Spatial Plan and RPJMD;
- Impact assessment (KLHS) of the improved Provincial RTRW and RPJMD on the environmental and economical
- effective incentives and disincentives to change current land-use and land-use practices;
- a clear definition of roles and responsibilities for the implementation of the Plan by public, private and NGO partners.

➤ **ITEM 6: Capacity Building for Government and Related Stakeholders for mainstreaming Green Growth and its Implementation**

Based on the output of all previous components, there is a need for relevant Government officials to get capacity building in terms of translating the developed Green Growth Plan into their official plans and budget. The consultant is suggested to involve the relevant officials during the process and transfer the knowledge through series of workshops.

**Data Collection and Methodology**

The consultant is urged to make use of existing data to the extent possible. A strategy for how to collect and compile (existing) data, how to analyze it, and how to deal with data gaps is an important component in the proposal. Since most of the data will be part of existing initiatives of different stakeholders and Government's plans within the Province, the approach for working with stakeholders and being able to get access to their information base is the underlying crucial component of the consultant's approach.

**Project Governance**

The consultant is urged to work with and under supervision of a special task force consists of representative from related Provincial Agencies. The team will get special apportionment (SK) from the Governor. IDH should also be included in the governance to be a facilitator and to provide input and direction if necessary.



## Expected Deliverables

1. Mapping of stakeholders, existing initiatives (strategies and gap analysis), available information plus a stakeholder engagement strategy for the Green Growth Plan development, as described under item 1.
2. Baseline data and Business of Usual scenario report (including maps/graphical representations as necessary), concerning all of the items listed under item 2 above;
3. KLHS report for the existing RTRW and RPJMD;
4. KPIs and targets, covering 3 items above;
5. Strategy & scenario report covering all of the items listed under component 4 above;
6. A concise, well-structured Green Growth Plan & Roadmap covering all of the components listed in 5 items above;
7. Map and graphs of the Green Growth Plan that can be used in communication by the Province as well as by other stakeholders;
8. Green Growth Plan mainstreamed in Provincial and District Government;
9. KLHS report for the updated RTRW and RPJMD;
10. Number of Relevant Government Officials trained for the Green Growth Plan Implementation
11. All raw data from the assignment.

All reports and deliverables should be in Bahasa and English in written format (Word and PDF) and should also include PowerPoint presentations which summarize the key findings. Final formats for maps and other materials will be agreed between the chosen consultant.

## Project Timelines

February 2018	Start of Contract
March 2018	Deliverables 1
May 2018	Deliverables 2 and 3
August 2018	Deliverable 4, 5, 6 and 7
October 2018	Final deadline for all deliverable reports

## Proposal Guidelines

The proposal should include:

1. A succinct approach and methodology demonstrating how the consultant intends to perform the assignment, along with likely sources of data. This part of the proposal shall not be longer than 5 pages in Word or 10 slides in Power Point.
2. An activity-based budget, specifying the names, unit costs, and number of working days per team member. The budget should be inclusive of VAT and other taxes in case these are applicable to this assignment.



3. List of references, addressing the selection criteria below. The reference text shall not be longer than 0.5 page in Word or 1 slide in Power Point.
4. Where the consultant requires support through partnership and/or sub-consulting to cover specific elements of the project, then a full description of the partners/ sub-contractors is required.
5. Activity planning in line with the assignment timeline.

### Tender timelines

18 December 2017	Deadline for submitting questions by e-mail to IDH
21 December 2017	Deadline for IDH replies to tenderers' questions
15 January 2018*	Deadline for submitting the Proposal by e-mail to IDH

\* Proposals submitted after the deadline will be returned and will not be considered in the tender procedure.

IDH will reject offers if any illegal or corrupt practices have taken place in connection with the award or the tender procedure.

### Selection Criteria

This study requires an independent and credible research institute or consultant which has extensive experience in developing green growth plans, business scenarios for production and protection, land-use/land-cover mapping and (computerized) modelling, familiar with sustainability initiatives, landscape level approaches, government engagement and private sector companies.

The proposal will be assessed against the following criteria:

Topic	Selection criteria	Maximum points	Weight
<b>Approach and methodology</b>	The approach and methodology proposed adequately address the objective and expected deliverables of the assignment.	20	2
	The relevance of and likely access to the list of documents and sources that the consultant plans to use to perform the assignment.	20	1.5
<b>Experience</b>	The consultant should demonstrate its knowledge of and experience in: <ul style="list-style-type: none"> <li>• working with the private sector and smallholders in the palm, rubber, coffee and forestry sectors;</li> </ul>	25	1.5



	<ul style="list-style-type: none"> <li>land-use planning and economics in the agricultural and forestry sectors;</li> <li>developing green growth plans and scenarios;</li> <li>knowledge of and experience with land use economics;</li> <li>computerized modelling of socio-economic and environmental effects of landscape management.</li> </ul> <p>The consultant will demonstrate this by submitting a maximum of two (2) references per experience point.</p>		
	<p>The team proposed to perform the assignment has experience with working in Jambi Province, in working together as a team, and they have participated in projects that cover the above-mentioned experience points. The consultant will demonstrate this by submitting the CVs of the team members.</p>	20	1.5
<b>Cost</b>	<p>The proposal with the lowest budget including VAT &amp; other taxes will receive 10 points, followed by 8, 5, and 3 points for the following higher budgets.</p>	15	1
<b>TOTAL</b>		<b>100</b>	<b>7.5</b>

## Terms and Conditions

### Grounds for Exclusion

1. Tenderers shall be excluded from participation in a procurement procedure if:
  - a) they are bankrupt or being wound up, are having their affairs administered by the courts, have entered into an arrangement with creditors, have suspended business activities, are subject of proceedings concerning those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
  - b) they or persons having powers of representation, decision-making or control over them have been convicted of an offence concerning their professional conduct by a judgment which has the force of res judicata;
  - c) they have been guilty of grave professional misconduct proven by any means which IDH can justify;
  - d) they have not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established, or with those of the Netherlands or those of the country where the contract is to be performed;
  - e) they or persons having powers of representation, decision making of control over them have been the subject of a judgment which has the force of res judicata for fraud, corruption,



involvement in a criminal organization, money laundering or any other illegal activity, where such illegal activity is detrimental to the MFA's financial interests.

Candidates or tenderers must confirm in writing that they are not in one of the situations as listed above.

2. Tenderers shall not make use of child labor or forced labor and/or practice discrimination and they shall respect the right to freedom of association and the right to organize and engage in collective bargaining, in accordance with the core conventions of the International Labor Organization (ILO).

#### **Exclusion during tender procedure**

Contracts may not be awarded to tenderers which, during the procurement procedure:

- a) are subject to a conflict of interests;
- b) are guilty of misrepresentation in supplying the information required by IDH as a condition of participation in the tender procedure or fail to supply this information.

#### **Acceptance of Standard Letter of Assignment Template**

By submitting a proposal, tenderers automatically accept IDH standard Letter of Assignment template which is included in Annex 1 and IDH General Terms and Conditions for Services which is included in Annex 2.

#### **Contact Details**

Please e-mail your questions and proposal to:

**Aris Wanjaya**

**Program Manager**

Email: [wanjaya@idhtrade.org](mailto:wanjaya@idhtrade.org)

Phone: + 62 821 10835058

using the reference: *Jambi Green Growth Plan Tender*

## LETTER OF ASSIGNMENT ("AGREEMENT")

THE PARTIES:

**IDH Sustainable Trade Initiative**, a foundation under the laws of the Netherlands, registered with the Dutch Chamber of Commerce under number 53521129, having its registered office and its place of business at Arthur van Schendelstraat 500, (3511 MH) Utrecht, the Netherlands, in this matter duly represented by Mr. S. Collet /H.J.M. Oorthuizen, hereinafter referred to as "**IDH**", and;

**[Name Partner]**, a [description legal entity] under the laws of [name country], registered with the [name registry] under number [registration number], having its registered office and its place of business at [address], [name country], in this matter duly represented by Mr./Mrs. [name representative], hereinafter referred to as the "**Consultant**".

IDH and the Consultant also together referred to as the "**Parties**" and individually as "**Party**".

HEREBY AGREE AS FOLLOWS:

1. The IDH General Terms & Conditions for services (attached hereto as Annex 1) apply to this Agreement between IDH and the Consultant.

### Scope of Services

2. The Consultant will provide services to IDH with regard to insert generic type of services (the "**Services**"), in accordance with the proposal enclosed to this letter as Annex 2 (the "**Proposal**"), which includes the approved budget and planning, all of which are integral part of this Agreement. The Services shall consist of the following:
  - I. [example]
  - II. [example]
  - III. [example]
3. The Services will be provided in the period from start date until end date.
4. The Consultant hereby agrees that the Services under this Agreement shall actually be performed by the following individual(s): [insert name(s)]. Notwithstanding the individual(s) assigned to the Services, the Consultant remains responsible and liable for the Services under this Agreement.

### Payment

5. For the satisfactory completion of the Services in compliance with the Proposal, the Consultant is entitled to a payment of EUR [amount] (including [...%] VAT), based on consultancy fees calculated in the budget.
6. If IDH and the Consultant agree that additional time is needed to complete the Services, Parties will confirm their agreement to the number of additional hours needed in an addendum to

this Agreement. The Parties agree that the same daily rate is applicable to any agreed additional time spent by the Consultant on the Services.

7. The Consultant will invoice the amount due in two equal parts: the first invoice will be sent after signing of this letter, the second invoice can be sent after IDH's written approval of satisfactory completion of Services. The invoice shall make specific reference the contract number [XXX.XXX.2017.01], and be sent by email to: 'invoice@idhtrade.org'. In addition, other expenses made within the scope of this assignment shall be reimbursed against original receipts, to be provided to IDH by the Consultant within 30 days of completion of the Services under this Agreement. Any such additional expenses not contained in the Proposal must be approved by IDH in writing, prior to making the expenses.
8. All funds provided by IDH will be transferred and disbursed to the Consultant at the following bank account:

Bank Name:	[Name bank + country]
Account Name:	[•]
Account Number:	[•]
Routing/ABA Number:	[•]
SWIFT Code:	[•]

#### **Intellectual Property**

9. All intellectual property arising from the performance of this Agreement (the "**Arising Intellectual Property**") shall belong to IDH.

#### **Duration**

10. The Agreement will be effective as from date and shall terminate automatically on date, unless extended by the Parties in writing.
11. Any Party may exit the Agreement before the end of the term of the Agreement, subject to 30 days written notice.
12. The rights and obligations of the Parties which by nature are meant to survive this termination, shall not terminate on this date.

**SIGNED BY THE PARTIES FOR AGREEMENT:**

**For IDH**

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Name: Mr. S. Collet/J. Oorthuizen

Position: Executive Board Member

Date: \_\_\_\_\_

**For the Consultant**

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Name:

Position:

Date: \_\_\_\_\_

**Attached to and integral part of this Agreement are:**

Annex 1: IDH General Terms & Conditions for services

Annex 2: [insert name Proposal]

**IDH SUSTAINABLE TRADE INITIATIVE  
GENERAL TERMS AND CONDITIONS  
for services**

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These General Terms & Conditions for services of IDH Sustainable Trade Initiative (“IDH”) state the rights and obligations of both the contracting party and IDH regarding their cooperation in general. Specific rights and obligations are agreed to in a separate agreement between the contracting party and IDH.

**I. GENERAL CONDITIONS**

**1. DEFINITIONS**

1.1. In these General Terms and Conditions of IDH Sustainable Trade Initiative, the following definitions apply:

“IDH”: Stichting IDH Sustainable Trade Initiative, a foundation under the laws of the Netherlands, registered with the Dutch Chamber of Commerce under number 53521129, having its registered office and its place of business at Arthur van Schendelstraat 500 (3511 MH) Utrecht, the Netherlands.

“Contracting Party”: The party (or parties) that has been awarded an assignment by IDH for providing services.

“Party” / “Parties”: IDH and the Contracting Party individually and collectively.

“Affiliates”: affiliates and/or subsidiaries (*groeps- en/of dochtervennootschappen*) within the definition of section 2:24 a and b of the Dutch Civil Code (*Burgerlijk Wetboek*);

“IDH General Terms and Conditions for services”: The terms & conditions in this document.

“Letter of Assignment”: the specific agreement (and all amendments thereto) between IDH and the Contracting Party in which IDH and the Contracting Party agree that the Contracting Party will provide services for IDH (under section 7:400 of the Dutch Civil Code (‘overeenkomst van opdracht’)).

“Entire Agreement”: The IDH General Terms and Conditions for services and the Letter of Assignment together, as well as any annexes or other documents and terms and conditions which are applicable to the relationship between IDH and the Contracting Party (‘Additional Conditions’) and to which the Letter of Assignment expressly refers.

“Services”: The services to be performed by the Contracting Party pursuant to the Letter of Assignment.

**2. APPLICABILITY OF THE IDH GENERAL TERMS AND CONDITIONS FOR SERVICES**

2.1 The IDH General Terms and Conditions for services apply to the Entire Agreement between the

Contracting Party and IDH. The applicability of any of the Contracting Party's conditions or other conditions is expressly excluded.

- 2.2 IDH has the right to change or add to the IDH General Terms and Conditions for services. IDH will notify the Contracting Party of any changes and/or additions before they take effect.

### **3. LIMITATION OF LIABILITY**

- 3.1 IDH cannot be held liable for damages resulting from the performance of the Services by the Contracting Party or any third party involved, including any infringement of intellectual property rights. In addition, either Party's liability for consequential damage, consequential loss, lost profits, lost savings, loss of goodwill, damage through business interruptions or damage ensuing from claims by third parties - whether based on contract, tort or otherwise - shall be excluded. The limitations of liability mentioned in this clause, or elsewhere in the Entire Agreement, shall not apply if and insofar as the damage or injury is the result of the willful intent or deliberate recklessness by the Parties or their executives.

### **4. INDEPENDENCE**

- 4.1 The Contracting Party is not a legal signatory for IDH and does therefore not have the mandate to sign any contracts or other legally binding documentation on behalf of IDH.
- 4.2 The Entire Agreement does not, in any way, constitute an employment agreement between the Contracting Party and IDH. Therefore the Contracting Party shall be fully responsible for the payment of all taxes, social security and other costs and obligations. IDH cannot be held liable for any financial claims in this respect.

### **5. FRAUD AND CORRUPTION**

- 5.1 The Parties are aware of the IDH Code of Conduct (which can be found [here](https://www.idhsustainabletrade.com/about-idh/), or via the 'Organization' tab on the 'About IDH' webpage: <https://www.idhsustainabletrade.com/about-idh/>). The IDH Code of Conduct provides the ethical framework in which IDH and any party contracted by IDH must operate. It provides an overview of the values, commitments, responsibilities and integrity that IDH stands for. IDH expects its business partners to apply similar standards of conduct when working for IDH.
- 5.2 The Parties will not offer to third parties or seek or accept from third parties, for themselves or for any other party, any gift, remuneration, compensation or benefit of any kind whatsoever, which would be deemed corrupt or illegal.

- 5.3 The Parties will refrain from providing any form of support to activities that have the goal of undermining the political independence of a state, or unlawfully overthrowing a lawful government. The 'lawfulness' (or unlawfulness) referred to in this clause is not solely defined by the opinions or views of the government in question, but is also defined by international standards and/or international law.

- 5.4 IDH partners and persons associated with IDH projects who become aware or suspect the existence of fraud, corruption or bribery shall bring it to the attention of IDH.

### **6. ICSR**

- 6.1 The Contracting Party aims to cooperate in the Program in a manner that is compatible with the *ICSR Policy* of IDH, which can be found [here](https://www.idhsustainabletrade.com/about-idh/), or via the 'Organization' tab on the 'About IDH' webpage: <https://www.idhsustainabletrade.com/about-idh/>.

### **7. COMPETITION COMPLIANCE**

- 7.1 The Contracting Party specifically acknowledges that IDH works in compliance with competition laws and principles as set out in IDH's *Competition Compliance Policy*, (which can be found [here](https://www.idhsustainabletrade.com/about-idh/), or via the 'Organization' tab on the 'About IDH' webpage: <https://www.idhsustainabletrade.com/about-idh/>) IDH and the Contracting Party, individually and collectively, shall not engage in any behavior that restricts competition. IDH and the Contracting Party are free to enter into any agreements with third parties.

## **II. PERFORMANCE OF THE SERVICES**

### **8. RESPONSIBILITIES OF THE CONTRACTING PARTY**

- 8.1 The Contracting Party is responsible for execution, coordination and results of the Services, as well as reporting on the Services to IDH, as agreed between the Parties in the Letter of Assignment. The Contracting Party must do so with the necessary care and transparency, and in accordance with the terms and conditions of the Entire Agreement.
- 8.2 The Parties agree to define "satisfactory completion of the Services" under the Letter of Assignment as the Consultant providing IDH with the deliverables described in the proposal attached to the Letter of Assignment and approval of these deliverables by IDH in writing (e-mail included). If satisfactory completion of the Services is not (fully) achieved, IDH shall have the right to adjust future payment, terminate payment and/or demand repayment of any payment, proportionate to the budget of the uncompleted (part of) the assignment.

**9. DELAYS, UNFORSEEN CIRCUMSTANCES, CHANGES TO THE SERVICES**

9.1 The Parties are obliged to promptly inform each other and consult with each other regarding any (suspected) changes in circumstances or irregularities that may affect the performance of the Services, and/or affect compliance with the Entire Agreement. Such notifications should include the financial interests involved (if applicable) as well as mitigating measures taken.

**10. COMPLIANCE WITH LOCAL LAWS**

10.1 In the performance of the Services, the Contracting Party must comply with all local laws.

**11. THIRD PARTY COMPLIANCE**

11.1 The Contracting Party will not assign the Entire Agreement or transfer any right or obligation thereunder to an Affiliate or any third party without the prior written consent of IDH.

11.2 The Contracting Party will ensure that any and all of the terms and conditions in the Entire Agreement shall be incorporated in equivalent contract terms in any sub-contract between the Contracting Party and a third party related to the execution of activities by the Contracting Party under the Entire Agreement. Any engagement of the Contracting Party with third parties in relation to the Letter of Assignment must be in writing and will not relieve the Contracting Party of its responsibility for the third parties' performance.

**12. INSURANCES**

12.1 The Contracting Party is responsible for their own insurances, social premiums, income tax and any other levies related to the Project regarding their performance of the activities related to their roles and responsibilities under the Entire Agreement. IDH cannot be held liable for damages due to loss, personal injury, whether direct or consequential, for activities executed by the Contracting Party under the Entire Agreement.

**13. GOOD ADMINISTRATION**

13.1 In order to provide proof that the activities under the scope of the Services have indeed been executed as agreed to between IDH and the Contracting Party in the Letter of Assignment, as well as for the purpose of good governance in general, the Contracting Party is required to have and maintain a proper and transparent (financial) administration and management.

**14. RIGHT TO AN ADDITIONAL AUDIT IN CASE OF REASONABLE DOUBT**

14.1 IDH, or any third party nominated by IDH, shall have the right to carry out audits of the Contracting Party's and/or subcontracted third parties' records to verify compliance with the provisions of the Entire

Agreement, as may be relevant. IDH shall further be entitled to carry out audits of the Contracting Party's and/or subcontracted third parties' books and records insofar as they relate to the Services under the Entire Agreement and the manner in which the Services have been performed by the Contracting Party. In this respect, IDH, or any third party nominated by IDH, shall have access to all records, including systems and computers where information is stored electronically, and to all other material and records related to the performance of the Entire Agreement. Such information will be treated as confidential and will be used exclusively for auditing. Information once verified will not be used for any other purpose without the prior written consent of the party to whom it relates. Any extra costs related to an additional audit referred to in this clause shall be agreed to between the Parties in writing.

14.2 The Contracting Party shall maintain the material and records referred to in this clause 14 until expiry of a period of two (2) years from the date of termination of the Entire Agreement or for the length of time required under the applicable law, whichever is longer.

**III. FINANCIAL CONDITIONS****15. FUNDING BY IDH**

15.1 IDH reserves the right to adjust any future installments due to the Contracting Party, or to (proportionally) reassign or reclaim any amount already transferred to the Contracting Party, in the event that the Contracting Party, without the prior written consent of IDH, does not fulfil, or not fulfil on time, its obligations under the Entire Agreement.

**16. EXCHANGE RATES**

16.1 For all payments made by IDH to the Contracting Party under the scope of the Letter of Assignment, the exchange rate of the day of receipt by the Contracting Party of the IDH's contribution(s) is applicable.

**17. TRANSFER OF FUNDS & PAYMENT CONDITIONS**

17.1 Payment requests sent to IDH by the Contracting Party must contain the total amount to be transferred and a reference to the IDH contract number (in Letter of Assignment) that the payment relates to. Payment will be made by IDH within 45 days after receiving a payment request, provided such is in accordance with the terms and conditions in the Entire Agreement.

17.2 IDH is an organization that is dependent on funding from multiple institutional donors and subject to various levels of government approvals for payments. IDH will use its best efforts to transfer the payment to the Contracting Party on time in accordance with the Entire Agreement. However, a late payment by IDH,



notwithstanding IDH's best efforts, that is later than 45 days but no more than 60 days later than the date of the payment request, will not be considered a breach of the Entire Agreement. For payments received later than 60 days, the Contracting Party has the right to adapt the planning of the Services to ensure, to the extent possible, uninterrupted delivery of the deliverables agreed to in the Letter of Assignment. The Contracting Party must notify IDH of the adapted planning as soon as possible.

#### **IV. CONFIDENTIALITY**

##### **18. CONFIDENTIALITY**

18.1 It is understood and agreed to that certain information may be provided to the Consultant by IDH and/or any other parties, in the context of this assignment, that is and must be kept confidential. Both during the term of this Agreement and after the termination thereof, for whatever reason, the Consultant or its substitute shall refrain from disclosing, in any way whatsoever and to any other party, any information of a confidential nature regarding IDH's activities which has come to the Consultant's or its substitute's attention in the course of performing the Services under this Agreement and whose confidential nature is clear or should reasonably be clear. This obligation shall apply, by way of example and without limitation, to any technical, financial and other information, the names of partners, proposed transactions, computer software, computer systems and databases, patent and/or trade secret laws.

#### **V. INTELLECTUAL PROPERTY**

##### **19. INTELLECTUAL PROPERTY**

19.1 If IDH's institutional donors, and the governments they may relate to, request use of reports, documentation, studies, publications, logo's or other material that is Arising Intellectual Property belonging (jointly) to IDH or free to use by IDH, IDH is free to share such information with the donor freely and without the consent of the Contracting Party.

19.2 Nothing contained in this Entire Agreement shall affect the absolute and unfettered rights of each Party in all materials, inventions, discoveries and intellectual property owned or controlled by that Party independently of the subject matter of the Entire Agreement (the "**Background Intellectual Property**").

19.3 Each Party (the "**Indemnifying Party**") will indemnify and hold the other Party (the "**Indemnified Party**") harmless from claims of third parties as a consequence of infringement of intellectual property rights of said third party, provided that the Indemnified Party informs the Indemnifying Party immediately in writing of the existence and content

of the alleged right to claim. The aforementioned obligation to indemnify and hold harmless lapses if and insofar as the concerned infringement is related to modifications in the intellectual property rights made by the Indemnified Parties, or by third parties mandated by the Indemnified Party.

#### **VI. TERM & TERMINATION**

##### **20. TERM**

20.1 The Entire Agreement takes effect on the starting date agreed to between the Parties in the Letter of Assignment. The Entire Agreement ends on the end date agreed to between the Parties in the Letter of Assignment or if the Entire Agreement is terminated in accordance with the terms and conditions in the Entire Agreement. If the end date agreed to in the Letter of Assignment is exceeded yet the obligations of the Contracting Party have not been met, the Entire Agreement will remain in effect until all obligations have been met by the Contracting Party or the Entire Agreement is terminated, whichever is earlier.

##### **21. AMENDMENT & TERMINATION**

21.1 The terms and conditions of the Entire Agreement can be amended only if the Parties agree to such amendment in writing.

21.2 IDH is an organization that is dependent on funding from multiple institutional donors. In the event that IDH's institutional donors terminate or materially change their funding of IDH, IDH and the Contracting Party individually and collectively have the right to terminate the Entire Agreement with immediate effect and without the risk of incurring liability for damages or compensation.

21.3 Either Party to the Agreement may terminate the Agreement immediately without the risk of incurring liability for damages or compensation, in the event that:

- a. the other Party fails to remedy any breach of its obligations under the Agreement within 30 days of written notification requiring it to do so;
- b. suspected fraud, or other illegitimate circumstances exist to such an extent that IDH considers the Contracting Party to be at fault or grossly negligent and further continuation of the Services is not possible or of too much risk. Written notice of termination shall be provided in this case, stating the applicable circumstances;
- c. the other Party files a petition for bankruptcy or is declared bankrupt; or has a liquidator, receiver, trustee or administrator appointed to it; or becomes insolvent; or admits its inability to pay its debts as they fall due.

21.4 A late payment by IDH, notwithstanding IDH's best efforts, that is no more than 60 days later than the date of the payment request, will not be considered a breach of the Agreement.

**VII. APPLICABLE LAW & DISPUTE RESOLUTION**

**22. APPLICABLE LAW**

22.1 The Entire Agreement is governed by the laws of the Netherlands.

**23. DISPUTE RESOLUTION**

23.1 Any dispute arising from or in connection with this Agreement which cannot be resolved amicably shall be submitted exclusively to the district court in Utrecht, the Netherlands, and each Party to this Agreement hereby submits irrevocably to the jurisdiction of such court.