

## **Terms of Reference**

### **IDH Sustainable Trade Initiative**

### **Green Coffee Supply Chain Analysis and Mapping**

October 28, 2022

#### **1. Introduction**

IDH Sustainable Trade Initiative (“**IDH**”) accelerates and up-scales sustainable trade by building impact-oriented coalitions of front running companies, civil society, governments, knowledge institutions and other stakeholders in several commodity sectors. We convene the interests, strengths and knowledge of public and private partners in sustainability commodity programs that aim to mainstream international and domestic commodity markets. We jointly formulate strategic intervention plans with public and private partners, and we co-invest with partners in activities that generate public goods.

On basis of these Terms of Reference (“**ToR**”), IDH aims to select a party to collect and analyze data of East Africa coffee producer countries and selected other producing countries for comparison. This party will map the supply chain costs and the proportion of the export price (FOB) paid to farmers at farm gate (FGP) for green coffee/green coffee equivalent in each of those countries.

#### **2. Background**

Living income is a key theme in the IDH Global Coffee Program strategy for 2021-2025. Within East Africa, IDH is collaborating with multi-stakeholders to integrate aspects of living income into the coffee supply chain in Uganda and Kenya. This effort is guided by IDH’s [Roadmap on Living Income](#), a framework which helps supply chain actors to take ambitious and aligned actions to close living income gaps for farming households.

The Roadmap identifies several drivers of income, one of them being the cost of production (CoP). CoP is generally determined by the costs borne by farmers, which include, depending on the structure of a producer country’s supply chain, farm operations, milling, marketing and ancillary services. The assignment should result in a clear understanding of the current supply chain costs and how they affect the green coffee FOB-FGP relationship. This will enable coffee sector stakeholders to take action to reduce CoP, which will lead to increased FGP, other things held constant. This study will provide information necessary to start a fact-based dialogue and consequential actions on closing living income gaps through supply chain efficiency, costs rationalization and optimized in the countries where IDH is implementing the East Africa Living Income Program.



IDH is looking for a consultant to develop a data collection and analysis framework and to carry out data collection and analysis which will result in disaggregated green coffee supply chain costs and mapping of FOB-FGP relationships for the following coffee producing countries: Ethiopia, Kenya, Uganda, Tanzania, Rwanda, Burundi, DR Congo, Cote D'Ivoire, Cameroon, Vietnam, India, Brazil, Colombia and Honduras. The consultant is expected to collect primary data through relevant means (to be proposed by consultant, e.g., questionnaires, interviews) as well as evaluate existing studies and secondary literature.

### 3. Assignment

#### Objectives

The overall objective of this assignment is to map the green coffee supply chain costs and FOB-FGP relationships for the coffee producing countries identified in Section 2 above. It is expected that the analysis should include data gathered over a minimum period of five years (2017 – present), in order to accommodate ad-hoc/seasonal variations.

The sub-objectives are:

- a. To understand and document the national green coffee supply chain structure of each of the selected producer countries from farm to market/sale of coffee and how the structure contributes to the CoP-FOB-FGP relationship.
- b. To identify opportunities, challenges and limitations for any of the selected East Africa producer countries' supply chains whose pay out to farmers at farm gate (FGP) is below 90% of the export price (FOB).
- c. Based on b. above, to create simulated national supply chain models for the selected East Africa producer countries which would achieve the 90% threshold.

#### Deliverables

The deliverables of this assignment will be:

Deliverables of assignment	Deadline
Develop a framework for CoP, FOB and FGP data collection and analysis for the target producer countries. IDH will approve this during an inception meeting.	23rd December 2022
Carry out literature review of existing CoP, FOB and FGP data and related studies and provide a clear overview of what data is missing and how this could be collected.	13th January 2023



Collect and analyse green coffee supply chain price and cost data disaggregated by the key segments of the supply chain: farm operations, processing/milling, milling, other services, etc.	3rd February 2023
Develop simulated models for restructured/optimised supply chain structures which would enable the defined FOB-FGP threshold for the selected countries in East Africa.	17th February 2023
Validate results with the multi-stakeholders in Kenya and Uganda (format of validation to be advised by IDH).	24th February 2023
Create a clear and aesthetic report to be used to drive multi-stakeholder dialogue and action.	10th March 2023

#### 4. Selection Procedure

The procedure will be as follows:

1. Publish the tender for prospective consultants to submit proposals based on this ToR.
2. Prospective consultants may submit questions regarding the assignment and the ToR. Questions will be answered via an information notice which will be shared with all consultants who indicated their interest in the assignment or submitted questions.
3. Evaluation of the proposals by the evaluation committee. The evaluation committee will evaluate the proposals based on the selection criteria as published in this ToR.
4. Decision on selection of the Service Provider.
5. Inception meeting with the selected Service Provider.

The schedule below indicates the timelines for the tender procedure:

Tender Process	Timeline
ToR published	28 <sup>th</sup> October 2022
Closing date questions*	8 <sup>th</sup> November 2022
Publication of information notice	14 <sup>th</sup> November 2022
Deadline for submission of proposals**	25 <sup>th</sup> November 2022
Selection of Service Provider	5 <sup>th</sup> December 2022
Start of assignment	15 <sup>th</sup> December 2022



*\* Questions received by IDH after this date will not be answered.*

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

After the deadline to submit a proposal has passed, the evaluation committee will evaluate the proposals.

The proposals will first be tested for completeness:

- The absence of the documents referred to in Sections 5 and 6 of the ToR can lead to exclusion from further participation in the tender procedure. This is also the case when minimum requirements listed in this ToR are not met.
- If the proposal is complete, the selection committee will evaluate the proposal based on the criterion as mentioned in Section 6.

The assignment will be awarded to the consultant with the most economically advantageous tender. This is determined based on the evaluation criteria price and quality.

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

### **Questions**

Questions regarding the assignment or the ToR can be submitted until **8<sup>th</sup> November 2022 at 16:00 East Africa Time**, by e-mail to [nganga@idhtrade.org](mailto:nganga@idhtrade.org) with reference to: “Questions Tender Green Coffee Supply Chain Costs Analysis and Mapping” in the subject of the email. Questions must be submitted in the English language and using the Template Question Form, attached to this ToR as **Annex 1**.

The submitted questions will be grouped, anonymized, and combined in an information notice. This notice will be sent to all consultants in a reply to the e-mail in which the questions were submitted.

The responsibility for the timely and accurate submission of the questions lies with the consultant. When IDH indicates that questions have not been received by IDH before the indicated deadline, the consultant must demonstrate that the questions were sent timely.

## **5. Proposal Requirements**

IDH is requesting consultants to hand in proposals of **maximum 10 pages** (excluding company biographies, team CVs, sample work and references). The proposal must be handed in a MS Word or PowerPoint version next to a PDF submission to facilitate any copy-and-pasting of content that may be needed during evaluation.



The proposal must at least include:

**Content:**

- a. A succinct, well-documented approach addressing the requirements set out this ToR and matching the selection criteria as closely as possible.
- b. Maximum of three client references with names and contact addresses (telephone and email) and 2 samples of previous work relevant or similar to the deliverables in this ToR.
- c. An overview of the project team, indicating their responsibilities/roles in the project, and including their CVs.
- d. Budget presented in **Euros** (ex VAT) with a break-down of days/rate per project team member.
- e. Statement on Grounds for Exclusion (see Section 6 below).

**Administrative:**

- f. Completed detail request form (**Annex 2**).
- g. Copy of the consultant's most recent audited financial accounts.
- h. Statement of acceptance of the draft contract (**Annex 3**).

The proposal must be submitted to Arthur Ng'ang'a at [nganga@idhtrade.org](mailto:nganga@idhtrade.org) before **25<sup>th</sup> November 2022 at 16:00 East Africa Time**.

## **6. Testing and Weighing**

The assignment will be awarded to the consultant with the most economically advantageous tender. The most economically advantageous tender is determined on the basis of the evaluation criteria of price and quality.

**Grounds for Exclusion**

1. Service providers shall be excluded from participation in this tender 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 the 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 or 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.

**Consultants must declare in writing that they are not in one of the situations listed above.**

2. Service providers 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).

### Scoring and Weighing

The evaluation criteria are compared and weighed according to the procedure below. This concerns a general outline of the scoring methodology and an explanation how the Service provider can demonstrate compliance with the requirements.

#### *Step 1 - Criterion Quality*

Evaluation scores will be awarded for each of the components. The evaluation committee will score each component unanimously.

The proposal will be assessed based on the following selection criteria:

Component		Criteria	Max. Score
1	<b>Proposal overall presentation and completeness</b>	The extent to which the proposal demonstrates that the consultant meets the requirements set out in Sections 3 and 5 above and throughout this document.	<b>10</b>



2	<b>Clarity of methodology and work plan</b>	The extent to which the proposal outlines a clear methodology and work plan, including both qualitative and quantitative components, and a relevant methodology for collection of data and integration of existing data/literature review.	<b>10</b>
3	<b>Track record</b>	The extent to which the consultant demonstrates the required level of expertise and knowledge to fulfil the requirements both at team member and company level.  The extent to which the consultant gives a clear description of the project team, proof of previous relevant similar assignments, and experience of team members.  The extent to which the consultant has relevant experience in the coffee sector.	<b>10</b>
4	<b>Value for money</b>	The best price for the proposed level of quality.	<b>10</b>

The evaluation committee will unanimously score each component by assigning scores from 1 to the maximum indicated, with the maximum score representing optimal performance on the component and a score of 1 representing extremely poor performance on the respective component.

#### *Step 2 - Criterion Price*

A combined price in Euros (ex VAT) is to be presented. This is to be broken down by team member rate and hours.

The criterion of assessment of price is “the best price for the proposed level of quality” with a maximum score of 10.

#### *Step 3 - Weighting*

The final score will be weighted 70% on Quality and 30% on Price.

Where the overall awarded scores tie, priority will be based on the total score given for the Criterion Quality and the assignment will be awarded to the consultant who has received the highest score for the Criterion Quality.

If the evaluation of the Criterion Quality does not lead to a distinction, the score for the component “Proposal overall presentation and completeness” will be decisive. If this does not lead to a distinction, the ranking will be determined by the drawing of lots.



### Award

Once IDH has decided to which consultant it intends to award the assignment, a written notification thereof will be sent to all consultants participating in the tender procedure.

The selected consultant will be contracted via a Letter of Assignment, following IDH's template (**Annex 4**).

## **7. Communication and Confidentiality**

The consultant will ensure that all its contacts with IDH with regards to the tender during the tender procedure take place exclusively in writing by e-mail to Arthur Ng'ang'a via [nganga@idhtrade.org](mailto:nganga@idhtrade.org). The consultant is thus explicitly prohibited, to prevent discrimination of the other consultants and to ensure the diligence of the procedure, to have any contact whatsoever regarding the tender with any other persons of IDH than the person stated in this paragraph.

The documents provided by or on behalf of IDH will be handled confidentiality. The consultant will also impose a duty of confidentiality on any parties that it engages. Any breach of the duty of confidentiality by the consultant or its engaged third parties will give IDH grounds for exclusion of the consultant, without requiring any prior written or verbal warning.

All information, documents and other requested or provided data submitted by the consultants will be handled with due care and confidentiality by IDH. The provided information will after evaluation by IDH be filed as confidential. The provided information will not be returned to the consultant.

## **8. Disclaimer**

IDH reserves the right to update, change, extend, postpone, withdraw, or suspend the ToR, this tender procedure, or any decision regarding the selection or contract award. IDH is not obliged in this tender procedure to make a contract award decision or to conclude a contract with a participant.

Participants in the tender procedure cannot claim compensation from IDH, any affiliated persons or entities, in any way, in case any of the afore-mentioned situations occur.

By handing in a proposal, participants accept all terms and reservations made in this ToR, and subsequent information and documentation in this tender procedure.





## **9. Annexes**

Annex 1: Template Question Form

Annex 2: Detail Request Form

Annex 3: Statement of Acceptance of Draft Letter of Assignment (Contract)

Annex 4: Draft Letter of Assignment (Contract)

Annex 5: IDH General Terms and Conditions for Services



# Detail Request Form

## LETTER OF ASSIGNMENT

IDH kindly requests that you complete the fields in this form so IDH has the details needed to create an accurate and complete contract. There is space below for additional information if needed.

The contents of this form will not be released to third parties without prior written notice and approval.

Please attach copies of the items listed below, as well as any other additional documentation that is necessary or requested:

- Chamber of Commerce Extract (or equivalent)
- Any other additional documentation that is necessary or requested.

### 1. Consultant Details

Company Name: <sup>i</sup>

Name of Consultant: <sup>i</sup>

Form and Country of Legal Incorporation: <sup>i</sup>

Registration Number: <sup>i</sup>

Name of Registration Authority: <sup>i</sup>

Registered Address: <sup>i</sup>

Name of Legal Signatory: <sup>i</sup>

### 2. Bank Details

Bank Name:

Country:

Account Name:

Account Number:

Routing / ABA Number:

SWIFT Code:

### 3. Additional Information

### Contracting process

After your contact person at IDH has received the details requested in this form, the contract will be drafted and send to you in PDF for a review. If there are any comments from your side, please inform your contact person at IDH. Once your contact person has received your approval, the draft version of the contract will be finalized. The contract will be signed and sent to you via DocuSign for your signature. Once both parties have signed the contract, the signed version will be shared with you in PDF.

### Statement of acceptance draft contract

By signing this statement of acceptance, the service provider accepts the IDH general terms and conditions for service and the general provisions of the draft letter of assignment.

Name service provider:	
Name signatory:	
Position:	
Date:	
Signature:  <i>Signed by a person with authority to represent the enterprise as appears from the Dutch Trade Register (handelsregister) or a comparable trade register in the enterprise's country of registration.</i>	



**Delete this page and any instructional comments before sharing with any external party**

## Instructions

### When to use this template?



To engage parties to provide short term services (e.g. hiring consultants), or to buy goods (e.g. products, such as laptops).

### How to fill in this template?



Request the relevant details from the Consultant by using the Detail Request Form for Letter of Assignments. Do not send the Consultant a draft version in Word or a version that still includes internal comments. The Consultant should only receive a final draft version in PDF format. (see link to Detail Request Form in the comment)



Fill in the template yourself by using the completed Detail Request Form to fill in the highlighted text in brackets.



Amend the template where needed to fit your specific situation. If there is a need to amend any standard clauses in the template, please consult your legal counsel.

### 1. Before sending the completed draft to the Consultant, please check :

- Have all details been filled in correctly?
- Have specific donor requirements been reflected in the Letter of Assignment (if relevant)?
- Does the Proposal include a detailed description of the Services so it is clear what IDH is paying for and how you will assess if the quality of the Services or deliverables is enough to approve and pay?
- Does the budget in the Proposal meet the budget criteria in the Finance checklist for LoA's?
- Has the final draft been approved by your Program Controller?
- Have you included the Salesforce number in the footer?
- Have all internal comments and this Instruction Letter been deleted?
- Have all highlights been removed from the document?
- Have you checked spelling and grammar?
- Have you saved the completed draft as a PDF file?

### 2. What do I send to the Consultant after completing the above checklist ?

- The Consultant should receive a package of all documents connected to the contract (all in PDF):
  - Completed final draft contract (PDF)
  - General Terms and Conditions for Services
  - Project Proposal (incl. approved Budget overview and KPI table)
- If the Consultant has comments, amend the contract in consultation with Finance/Legal (and PM/PD) where appropriate. When the Project Partner agrees with the final draft, proceed with the approval process in Salesforce.

### 3. What are the next steps after the Consultant has agreed to the final draft ?

- After agreeing on a final version with the Consultant, the Letter of Assignment is ready to be submitted on SalesForce for approval by the Program Controller, Legal Counsel, Program Director and Executive Board.
- Before you submit for approval, please check if:
  - You have removed the disclaimer on the first page and the draft watermark?
  - You have made sure that all annexes mentioned in the contract are:
    - Included in the annex list on the signature page?
    - Are uploaded in Salesforce prior to submitting for approval?
- After the contract has been approved, please use Salesforce and Docusign to have the contract signed. Make sure to select ALL annexes and the Letter of Assignment itself, so the annexes are also sent to all signers.

For questions please contact legal

For guidance on all steps in the contracting process

**[THIS DOCUMENT IS A DRAFT CONTRACT PROVIDED FOR THE PURPOSE OF REVIEW AND IS PENDING REVIEW AND APPROVAL BY THE IDH LEGAL TEAM. AS SUCH, ALL INFORMATION HEREIN IS SUBJECT TO CHANGE AND DOES NOT BIND IDH IN ANY WAY.]**

**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 Mrs. Céline Bouquet/Mr. Joost Oorthuizen, hereinafter referred to as "**IDH**", and;

**Name Partner**, a form of legal incorporation under the laws of name country, registered with the name National Company Registration Authority 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 legal 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 and Conditions for Services (attached hereto as Annex 1) (hereinafter referred to as the "**IDH General Terms and Conditions**") apply to this Agreement between IDH and the Consultant.
2. Unless otherwise specifically agreed to by the Parties, in the event of any conflict between the terms of this Agreement and its annexes, the following order or precedence will be applied: i) the terms of this Agreement; ii) the IDH General Terms and Conditions; iii) the Proposal; iv) other annexed documents, if relevant.

**Scope of Services**

3. 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. service
  - II. service
  - III. service

This will result in the following deliverables:

- I. deliverable
- II. deliverable
- III. deliverable

**Commented [FP1]:** If the Consultant is a natural person (individual) and is not contracting with a legal entity, please include: "[Full Name Partner], a natural person with a [Country] nationality and passport number [passport number], born on [date of birth] and residing at [official address]"

4. The Services by the Consultant will be completed before date.
5. The Consultant hereby agrees that the Services under this Agreement shall actually be performed by the following project team: insert name(s). Notwithstanding the individual(s) assigned to the Services, the Consultant remains responsible and liable for the Services under this Agreement.
6. In reference to and in addition to article 12.1 of the IDH General Terms and Conditions, 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 implementation of the Project, and/or affect compliance with the Agreement. Such notifications should include the financial interests involved (if applicable) as well as mitigating measures taken. If any (suspected) changes in circumstances or irregularities, including but not limited to epidemics such as Covid-19, lead to any delay in the implementation of the Project, IDH shall have the right to adjust the instalment schedule.

**Commented [KH2]:** Optional. Only include this paragraph when relevant for this Letter of Assignment. Otherwise, please delete.

#### Payment

7. For the satisfactory completion of the Services in compliance with the Proposal, the Consultant is entitled to a payment of EUR amount (including VAT and all applicable other taxes), based on consultancy fees calculated in the budget.
8. If IDH and the Consultant agree that additional time is needed to complete the Services, Parties will confirm their agreement to the amount of additional time needed in an addendum to this Agreement. The Parties agree that the rates used in calculating the cost of such agreed additional time spent by the Consultant on the Services will be in accordance with the rates set out in the Proposal.
9. The Consultant will invoice the amount due in two equal parts: the first invoice (which includes an advance payment for any expenses included in the Proposal) may be sent after signing of this Agreement, the second invoice can be sent after IDH's written approval of satisfactory completion of Services. The last invoice should include a settlement of the actual expenses made: in the event the Consultant spends less than the expenses budgeted in the Proposal, the actual costs shall be settled accordingly with the final invoice. The invoices shall make specific reference to the contract number [Salesforce number] and be sent by email to: 'invoice@idhtrade.org'.
10. Any expenses made within the scope of this assignment shall only be reimbursed against original receipts, to be provided to IDH by the Consultant together with the final invoice. Any additional expenses not contained in the Proposal must be approved by IDH in writing, prior to making the expenses.
11. 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: •

**Commented [FP3]:** Deviations to the Intellectual Property (IP) Section (article 12 and 13) can only be made with legal approval. The IP arrangements relate to agreements IDH has made with its donors. If you believe edits to the IP clauses are appropriate, please discuss with your legal counsel.

**Intellectual Property**

- 12. The Consultant acknowledges that IDH is and maintains to be the owner of all intellectual property arising from the performance of this Agreement, including but not limited to copyrights, database rights, trademarks, patents and know how (the “**Arising Intellectual Property**”).
  
- 13. Any Arising Intellectual Property vested in the Consultant is hereby transferred, assigned and delivered to IDH (in advance), including the right to publicly communicate about the Project. The aforementioned transfer, assignment and delivery is hereby accepted by the Consultant and IDH (in advance).

**Duration**

- 14. The Agreement will be effective as from date and shall terminate automatically on date, unless extended by the Parties in writing.
  
- 15. Any Party may exit the Agreement before the end of the term of the Agreement, subject to 30 days written notice.
  
- 16. In reference to article 24.2 of the IDH General Terms and Conditions, the Parties acknowledge that IDH is an organization that is dependent on funding from multiple institutional donors. In the event IDHs institutional donors terminate, end or materially change their funding of IDH, the Parties reserve the right to terminate the Agreement with immediate effect and without the risk of incurring liability for damages or compensation.
  
- 17. The rights and obligations of the Parties which by nature are meant to survive this termination, shall not terminate on this date.

**SIGNATURE PAGE FOLLOWS**





**SIGNED BY THE PARTIES FOR AGREEMENT:**

**For IDH**

-----  
Name: Mrs. Céline Bouquet /Mr. Joost Oorthuizen  
Position: COO/CEO  
Date: \_\_\_\_\_

**For the Consultant**

-----  
Name:  
Position:  
Date: \_\_\_\_\_

**Attached to and integral part of this Agreement are:**  
Annex 1: IDH General Terms and Conditions for Services  
Annex 2: insert name Proposal

DRAFT

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

**Contents**

<b>I.</b>	<b>GENERAL CONDITIONS</b>	
1.	DEFINITIONS.....	1
2.	APPLICABILITY OF THE IDH GENERAL TERMS AND CONDITIONS FOR SERVICES.....	1
3.	LIMITATION OF LIABILITY .....	2
4.	INDEPENDENCE.....	2
5.	FRAUD AND CORRUPTION .....	2
6.	CONFLICT OF INTEREST .....	2
7.	PRIVACY.....	2
8.	ICSR .....	2
9.	COMPETITION COMPLIANCE.....	2
10.	SAFEGUARDING.....	3
11.	SPEAKUP.....	3
<b>II.</b>	<b>PERFORMANCE OF THE SERVICES</b>	
12.	RESPONSIBILITIES OF THE CONTRACTING PARTY....	3
13.	DELAYS, UNFORSEEN CIRCUMSTANCES, CHANGES TO THE SERVICES .....	3
14.	COMPLIANCE WITH LOCAL LAWS.....	4
15.	THIRD PARTY COMPLIANCE.....	4
16.	INSURANCES.....	4
17.	GOOD ADMINISTRATION.....	4
18.	RIGHT TO AN ADDITIONAL AUDIT .....	4
<b>III.</b>	<b>FINANCIAL CONDITIONS</b>	
19.	FUNDING BY IDH .....	4
20.	EXCHANGE RATES.....	4
21.	TRANSFER OF FUNDS & PAYMENT CONDITIONS ....	4
<b>IV.</b>	<b>CONFIDENTIALITY</b>	
22.	CONFIDENTIALITY.....	5
<b>V.</b>	<b>INTELLECTUAL PROPERTY</b>	
23.	INTELLECTUAL PROPERTY.....	5
<b>VI.</b>	<b>TERM &amp; TERMINATION</b>	
24.	TERM.....	5
25.	AMENDMENT & TERMINATION .....	5
<b>VII.</b>	<b>APPLICABLE LAW &amp; DISPUTE RESOLUTION</b>	
26.	APPLICABLE LAW .....	6
27.	DISPUTE RESOLUTION .....	6

*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.

2.3 In case of inconsistencies between the General Terms & Conditions and the Letter of Assignment, the Letter of Assignment will prevail over the General Terms & Conditions.

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

3.1 IDH cannot be held liable for damages, losses and/or personal injury suffered by the Contracting Party and/or any third party resulting from the execution of the Entire Agreement, 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](#), or via the 'Our policies' tab on the 'About' webpage: <https://www.idhsustainabletrade.com/policies>). 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. CONFLICT OF INTEREST**

6.1. The Contracting Party and/ or any subcontracted third party will inform IDH in writing without delay in the event there are any (potential) conflicts of interest relating to the activities under the Entire Agreement. Such party shall immediately take all necessary steps to resolve the (potential) conflict of interest. IDH reserves the right to verify whether the measures taken are appropriate and may require additional measures to be taken if necessary.

6.2. For the avoidance of doubt, a (potential) conflict of interest shall include all activities that would lead to an partial and/ or non- objective performance of the Entire Agreement.

### **7. PRIVACY**

7.1. The privacy statement for business partners and consultants can be found [here](#) or via the 'Our Policies' tab on the 'About' webpage: <https://www.idhsustainabletrade.com/policies>.

### **8. ICSR**

8.1. 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](#), or via the 'Our Policies' tab on the 'About' webpage: <https://www.idhsustainabletrade.com/policies>.

### **9. COMPETITION COMPLIANCE**

9.1. 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](#), or via the 'Our policies' tab on the 'About' webpage: <https://www.idhsustainabletrade.com/policies>) 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.

## 10. SAFEGUARDING

- 10.1. The Parties are aware of the IDH Safeguarding Policy (which can be found [here](#), or via the 'Our Policies' tab on the 'About' webpage: <https://www.idhsustainabletrade.com/policies>).
- 10.2. The Parties have a zero-tolerance approach towards any form of sexual exploitation, abuse and harassment. The Contracting Party will comply with IDH's Safeguarding Policy and shall take all reasonable steps to prevent the sexual exploitation, abuse and harassment of any person linked to the execution of the Entire Agreement by both its employees and any third party subcontracted in relation to the execution of activities under the Entire Agreement.
- 10.3. The Contracting Party shall immediately report to IDH any breach of the Safeguarding Policy and credible suspicions of, or actual incidents of sexual exploitation, abuse or harassment related to the Entire Agreement. The Contracting Party will assess credibility based on the source of the allegation, the content, and the level of detail or evidence provided. The Contracting Party can use the reporting mechanisms described in articles 11.1 and 11.2 below.
- 10.4. The Contracting Party shall also report any credible suspicions of, or actual incidents that are not directly related to the Entire Agreement but could be of significant impact to IDH's reputation or partnerships with its donors. The Contracting Party can use the reporting mechanisms described in articles 11.1 and 11.2 below.
- 10.5. The Parties will fully co-operate with investigations into such incidents.
- 10.6. If the Contracting Party fails to comply with the IDH Safeguarding Policy or commits a breach of any of the terms included in article 9, IDH has the right to immediately terminate the Entire Agreement without the risk of incurring liability for damages or compensation.

## 11. SPEAKUP

- 11.1. IDH is committed to conducting its work with honesty, dignity, fairness and with respect for each other and the law. The Contracting Party is

encouraged to report to IDH any (suspected) violation by the Contracting Party's staff, IDH's staff or third parties of IDH's values and principles included in IDH's Code of Conduct, other IDH policies or laws or regulations that has occurred or may occur in relation to the Entire Agreement. The Contracting Party can report this directly to its contact person at IDH, to IDH's Executive Board or by using IDH's SpeakUp line.

- 11.2. IDH's SpeakUp line can be accessed online or by phone. Click [here](#) for a list of free phone numbers in each country or to report online. For more information, please refer to the SpeakUp policy (which can be found [here](#), or via the 'Our Policies' tab on the 'About' webpage: <https://www.idhsustainabletrade.com/policies>).
- 11.3. The Contracting Party shall promote the IDH SpeakUp line with its employees and any third party related to the execution of activities under the Entire Agreement, as well as the individuals and communities directly affected by the activities under the Entire Agreement. The Contracting Party shall use the communications materials provided by IDH (which can be found [here](#), or via the 'Our Policies' tab on the 'About' webpage: <https://www.idhsustainabletrade.com/policies>).

## II. PERFORMANCE OF THE SERVICES

### 12. RESPONSIBILITIES OF THE CONTRACTING PARTY

- 12.1 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.
- 12.2 The Parties agree to define "satisfactory completion of the Services" under the Letter of Assignment as the Contracting Party 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.

### 13. DELAYS, UNFORSEEN CIRCUMSTANCES, CHANGES TO THE SERVICES

- 13.1. 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.

#### **14. COMPLIANCE WITH LOCAL LAWS**

14.1. In the performance of the Services, the Contracting Party must comply with all applicable laws and respect internationally recognized human rights, multilateral environmental agreements and internationally agreed core labor standards.

14.2. In the event of conflict between applicable laws and internationally recognized human rights, multilateral environmental agreements and/or internationally agreed core labor standards, the Contracting Party shall seek ways to respect the principles of internationally recognized human rights, multilateral environmental agreements and/or internationally agreed core labor standards to the greatest extent possible given the circumstances.

14.3. In case a breach of article 13.1 occurs or such actual or potential conflict, as referred to in article 13.2, arises under the Entire Agreement, the Contracting Party shall immediately inform IDH in writing of the breach or of the actual or potential conflict and must request IDH's approval prior to continuing the performance of Services.

#### **15. THIRD PARTY COMPLIANCE**

15.1. 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.

15.2. 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.

#### **16. INSURANCES**

16.1. 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.

#### **17. GOOD ADMINISTRATION**

17.1. 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.

#### **18. RIGHT TO AN ADDITIONAL AUDIT**

18.1. 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.

18.2. The Contracting Party shall maintain the material and records referred to in clause 17.1 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**

#### **19. FUNDING BY IDH**

19.1. 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.

#### **20. EXCHANGE RATES**

20.2. 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.

#### **21. TRANSFER OF FUNDS & PAYMENT CONDITIONS**

21.1. 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.

21.2. IDH is an organization that is dependent on funding from multiple 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**

##### **22. CONFIDENTIALITY**

22.1. It is understood and agreed to that certain information may be provided to the Contracting Party 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 Contracting Party 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 Contracting Party'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**

##### **23. INTELLECTUAL PROPERTY**

23.1. If IDH's donors, or 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.

23.2. 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**").

23.3. 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**

##### **24. TERM**

24.1. 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.

##### **25. AMENDMENT & TERMINATION**

25.1. The terms and conditions of the Letter of Assignment can be amended only if the Parties agree to such amendment in writing.

25.2. IDH is an organization that is dependent on funding from multiple donors. In the event that IDH's 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.

25.3. 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.

25.4. 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**

### **26. APPLICABLE LAW**

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

### **27. DISPUTE RESOLUTION**

27.1. 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.