

**Terms of Reference**  
**IDH Sustainable Trade Initiative**  
**Audiovisual experience with VR headset of IDH Landscape program**

(Indonesian province of Aceh Tamiang)

December 2, 2022

### **1. Introduction**

IDH puts people, planet, and progress at the heart of trade by leveraging the power of markets to create better jobs, better incomes, a better environment, and gender equity for all. To create the greatest impact in the shortest amount of time, IDH focuses on empowering people within corporations the global financial sector and governments that have the most influence over value chains. Headquartered in the Netherlands, IDH has around 380 employees globally, operating in 20 landscapes and 12 commodities and sourcing regions with over 1000 public and private partners.

On basis of these Terms of Reference (“**ToR**”) IDH aims to select a party **to create a VR experience of the Indonesian landscape of Aceh Tamiang where IDH implements its projects.**

### **2. Background**

For IDH Landscape approach to create systems change, it needs to transform the status quo that has led to the environmental and social challenges that are being faced in a specific landscape. This means that after an initial period where progress is made and the area has reached some important milestones in its progress towards sustainability, financial stakeholders open up sources of financing to ensure that these changes can be maintained in the long term. In practice, this means impact investors, sourcing managers or heads of procurement committing contractually to purchasing sustainable produce from the landscape or otherwise investing in the landscape. Effective communication plays a crucial role in this step.

IDH landscape approaches are holistic, meaning they include many different stakeholders and think of the ‘big picture’. Many levels of work from many different people build up an inclusive approach to land use management and territorial development. There is an understanding barrier requiring IDH’s external audience to be educated about the reason for the need for an IDH landscape approach in the area before the relevance of messages becomes evident.

High-impact communication of IDH landscape approaches (including jurisdictional approaches) is challenging. While cities and countries have existing narratives and identities in the collective imagination, landscape approaches are more difficult to present to a broader audience. For this assignment, IDH wants to focus on the external communication on Indonesian province of Aceh Tamiang, where IDH projects are implemented.

**IDH is looking for an experienced virtual reality production company to create a Virtual Reality experience of IDH’s landscapes in Indonesia, including a start menu with a map of IDH’s landscapes, and to provide five Virtual Reality headsets.**

### 3. Assignment

#### Objectives

The overall objective of this assignment is to create an audiovisual experience for IDH’s landscape program, showcasing IDH’s Aceh Tamiang region with new footage taken from the Aceh Tamiang landscape in Indonesia. This assignment will thus encompass the development of an audio-visual product for the IDH Landscape, to be experienced through a VR headset or similar hardware device. Following the VR experience, the audience shall:

- Have an impression of the scope of IDH’s landscape in Indonesia
- Have an impression of the global spread of IDH’s landscapes program
- Have a sense of what it is like to walk around in the Aceh Tamiang landscape
- Feel an emotional connection with the Aceh Tamiang landscape
- Feel convinced of the importance of IDH landscape approach and of the value of replicating the successful project in Aceh in other landscapes in the world that are facing similar challenges (including deforestation)
- Have a renewed sense of urgency to make brave decisions and take action on climate change and social inequality,
- Have a more nuanced understanding of the way IDH works in Aceh,
- Have a sense of hope for the future and that changing the system towards a new sustainable reality is possible if the right partners work together.

For further details on the requirements, please see **Annex 1**

#### Deliverables

The deliverables of this assignment will be:

Deliverables of assignment	Deadline
Start menu showing graphic of IDH global landscapes map in IDH branding	31 March 2022
Audiovisual experience of Aceh Tamiang landscape with fully original footage	31 March 2022
Video Editing in relation to the frame style, music, video, and the sound effect etc.	31 March 2022
4 VR headset	31 March 2022

### 4. Selection Procedure

The procedure will be as follows:

1. Publishing the tender and inviting services providers to submit a proposal based on this ToR.
2. Evaluation of the proposals by the chair of the evaluation committee. The 3 proposals that receive the highest scores will be invited to present their proposal to the evaluation committee. The chair of the evaluation committee and the evaluation committee will evaluate the proposals based on the selection criteria as published in this ToR.

Note: there are no additional awarded for the presentation self, as it serves the purpose of clarification on the elements of the submitted proposal.

3. In the case of multiple suitable providers with similarly competitive rates, the two highest-scoring service providers may be requested to do a team pitch.
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	02/12/2022
Deadline for submission of proposals**	12/12/2022
Selection of Service provider	13/12/2022
Start of assignment	14/12/2022

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 Section 6 of this document 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 criteria as mentioned in section 6.

The assignment will be awarded to the service provider with the most economically advantageous tender. This is determined based on the evaluation criteria price and quality (see section 6 below).

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

## 5. Proposal requirements

IDH is requesting the service providers to hand in a proposal of maximum 2 pages (excluding company biographies, 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 we may need during evaluation.

The proposal must at least include:

### Content:

- a. A succinct, well-documented approach addressing the requirements set out this ToR.
- b. Link to portfolio with comparable work previously carried out
- c. An overview of the project team, including the names and profiles of the project team members
- d. Budget presented in Euros (**ex. VAT**) including estimated travel costs with a break-down of days/rate per project team member

- e. Statement on Ground for exclusion (see section 7 below)

The proposal must be submitted to Clara Grimes at [grimes@idhtrade.org](mailto:grimes@idhtrade.org) before 12 December 2022 17:00.

The contract will be invoiced 50% on acceptance of the proposal and 50% on completion of the deliverables.

## 6. Testing and weighing

The assignment will be awarded to the service provider 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.

**Service providers must confirm in writing that they are not in one of the situations as 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. Grading
1	<p><b>Proposal overall</b></p> <p>The extent to which the proposal meets the requirements set out in Section 3 above, Annex 1 and throughout this document.</p>	5
2	<p><b>Design and Development process</b></p> <p>The extent to which the Service provider demonstrates that a clear design and development process will be followed and IDH is adequately consulted for input during the design and development.</p> <p>The extent to which it is clear what is required of IDH in terms of human resources, digital assets and other input to deliver the project without being too onerous on our staff.</p>	5
3	<p><b>Track record</b></p> <p>The extent to which the Service provider presents the required level of expertise and knowledge to fulfil the requirements both at team member and company level.</p> <p>To extent to which the Service providers gives a clear description of the project team, relevant (delivering similar projects) experience of team members and time allocation per team member.</p>	5

The evaluation committee will unanimously score each component by assigning scores from 1 to the maximum grading, with the maximum grading representing optimal performance on the component and 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 is “the best price for the proposed level of quality” with a maximum grading of 5.

### Step 3 - Weighting

The final score will be weighted 65% on Quality and 35% on Price.

If scores of service providers are equal, priority will be based on the total scores that were given for the Criterion Quality. The assignment will be awarded to the service provider that 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” 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 Service provider it intends to award the assignment, a written notification thereof is sent to all Service providers participating in the tender procedure.

The Service provider is contracted via a letter of assignment, following IDH’s template (Annex 4).

### **7. Communication and Confidentiality**

The Service provider 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 Clara Grimes via [grimes@idhtrade.org](mailto:grimes@idhtrade.org). The Service provider is thus explicitly prohibited, to prevent discrimination of the other Service providers 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 the first sentence of this paragraph.

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

All information, documents and other requested or provided data submitted by the Service providers 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 Service provider.

### **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: Consultant Profile

Annex 2: IDH General Terms and Conditions for Services

## **Annex 1: Consultant profile**

The consultant(s) need(s) to have the following experience / knowledge:

1. Demonstrated experience supported by a portfolio developing deliverables described in section 3.
2. Demonstrated experience in producing public-facing communication outputs for a professional client
3. Demonstrable and quantifiable experience in increasing impact or engagement through the production of communication materials.

The consultant(s) need(s) to have the following skills:

1. Good interpersonal and communication skills
2. Solid technical skills in the production of the assigned communication output
3. Advanced skills in producing original communication materials while adhere to the house look and feel of IDH.

The consultant(s) need(s) to have the following characteristics:

1. Be able to promptly respond to calls for proposals
2. Be able to understand and follow briefings in English and revise products according to feedback
3. Be able to adhere to the IDH house style and visual identity
4. Have the software and equipment needed to carry out the assignment.
5. Knowledgeable about current trends in styles and genres directly related to the communication product.
6. Ability to engage and cooperate with local communication teams and partners in Indonesia to produce original material on the ground.
7. Able to communicate with local suppliers in Vietnam to use existing 360 degree photograph.

Project timetable:

14 December: Beginning of project

14 December – 30 January: Project planning, design, setting dates with Indonesian counterparts and definition of narrative

30 January – 17 February (indicative, to be defined according to needs): Travel and production

17 February – 31 March: Editing and feedback

The following details will be defined during project planning stage

- Start menu showing graphic of IDH global landscapes map in IDH branding
- Audiovisual experience of Aceh Tamiang landscape with fully original footage
- Video Editing in relation to the frame style, music, video, and the sound effect etc.
- 5 VR headsets

The supplier should make own travel arrangements and accommodation arrangements, organize permission to film in due time and the above should be included in the budget submitted.



# 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/ have 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 providing services 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 and partial and/ or non- objective performance of the Entire Agreement.

### **7. DATA AND 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. PROCESSING OF PERSONAL DATA**

- 8.1 With regards to the processing of personal data under the Agreement, within the meaning of Article 4 (2) of the General Data Protection Regulation ("GDPR"), both Parties are deemed to be controller within the meaning of Article 4 (7) GDPR.
- 8.2 Parties shall:
- process personal data in accordance with applicable laws and regulations regarding the processing of personal data, including but not limited to the GDPR;
  - provide each other reasonable cooperation and assistance, for example with respect to the handling of requests of data subjects and the performance of data protection impact assessments, to ensure that each Party complies with applicable laws and regulations.
- 8.3 The Contracting Party shall:
- only process personal data of data subjects in order to comply with its obligations under

the Agreement and not for any other purposes;

- b. limit the provision of personal data to IDH to what is strictly necessary to fulfill its obligations under the Agreement;
- c. inform the data subject with respect to the processing of personal data by both Parties in accordance with the GDPR. Upon request IDH shall provide relevant information for the provision of such information;

8.4 Upon detection of a personal data breach as defined under article 4 of the GDPR ("Data Breach") with respect to the Personal Data, the Contracting Party shall promptly notify IDH of said Data Breach, and shall ensure that the Data Breach is handled and data subjects and/or supervisory authorities are notified in accordance with the GDPR.

8.5 The Contracting Party shall fully indemnify and hold IDH harmless from and against any and all damages, loss, costs, fines from regulatory or supervisory authorities, charges, expenses, legal fees and disbursements and any other liabilities suffered as a result of or in connection with the processing of personal data and any breach of this Agreement by [Consultant/ the Contracting Party] or its employees or other representatives.

## 9. ICSR

9.1 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>.

## 10. COMPETITION COMPLIANCE

10.1 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.

## 11. SAFEGUARDING

11.1 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>).

11.2 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.

11.3 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 12.1 and 12.2 below.

11.4 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 12.1 and 12.2 below.

11.5 The Parties will fully co-operate with investigations into such incidents.

11.6 If the Contracting Party fails to comply with the IDH Safeguarding Policy or commits a breach of any of the terms included in article 11 IDH has the right to immediately terminate the Entire Agreement without the risk of incurring liability for damages or compensation.

## 12. SPEAKUP

12.1 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.

12.2 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>).

12.3 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**

### 13. RESPONSIBILITIES OF THE CONTRACTING PARTY

13.1 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.

13.2 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.

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

14.1 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.

### 15. 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.

15.2 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.

15.3 In case a breach of article 15.1 occurs or such actual or potential conflict, as referred to in article 15.2, 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.

### 16. THIRD PARTY COMPLIANCE

16.1 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.

16.2 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.

### 17. INSURANCES

17.1 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.

### 18. GOOD ADMINISTRATION

18.1 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.

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

19.1 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.

19.2 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**

### **20. FUNDING BY IDH**

20.1 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.

### **21. EXCHANGE RATES**

21.2 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.

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

22.1 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.

22.2 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**

### **23. CONFIDENTIALITY**

23.1 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**

### **24. INTELLECTUAL PROPERTY**

24.1 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.

24.2 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**”).

24.3 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**

### **25. TERM**

25.1 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.

### **26. AMENDMENT & TERMINATION**

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

26.2 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.

26.3 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.

26.4 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**

### **27. APPLICABLE LAW**

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

### **28. DISPUTE RESOLUTION**

28.1 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.