

Appendix 1b: Draft Conditions of Contract – United Nations Environment Programme

**PROJECT COOPERATION AGREEMENT
BETWEEN
THE UNITED NATIONS ENVIRONMENT PROGRAMME (UNEP)
AND
[name of the Partner]**

THIS PROJECT COOPERATION AGREEMENT (PCA) and its annexes (this “Agreement”) is made on [Date]

BETWEEN: United Nations Environment Programme (hereinafter referred to as “UNEP”), an international inter-governmental organisation established by the General Assembly of the United Nations, represented by its [] and having its office at [address].

AND: [Name of the Partner] (hereinafter referred to as “the Partner”), an organization [legal status of the Partner] represented by its [] and having its office at [address].

GENERAL PRINCIPLES

- A. UNEP has been entrusted by its donors with resources that can be allocated for programmes and projects, and is accountable to its donors and its Governing Council for the proper management of these funds and can, in accordance with the UNEP (*details of Resolution/legislative authority*), make available such resources for cooperation in the form of a project (hereinafter referred to as the “Project”), which is more fully described in the Project Document (Annex-A);
- B. (*the Partner*) is committed to the principles of [conservation, protection, enhancement as support of nature and natural resources, including biological diversity, world wide] and has demonstrated its capacity needed for implementing the activities involved, in accordance with the UNEP requirements for such Project management;
- C. On the basis of their respective mandates, a common aim in the [conservation, protection, enhancement as support of nature and natural resources, including biological diversity, world wide], UNEP and [*the Partner*] (hereinafter collectively referred to as “Parties”) have developed the collaborative Project as per Annex A. General provisions on the rights and obligations of the Parties are provided under this Agreement;
- D. [*The Partner*] affirms that it [is non profit-oriented and non-partisan and that it] has the capacities to carry out the activities outlined in this Agreement and that the activities under this Agreement shall be carried out without discrimination of any nature;
- E. UNEP and [*the Partner*] have agreed to cooperate to implement the Project, in accordance with the Project Document which is attached to this Agreement (Annex-A) and any other

document of relevance, attached to this Agreement as separate Annexes. The Parties will carry out their respective responsibilities in the spirit of partnership and in consultation with each other.

Clause I **Interpretation**

1. For the purpose of interpretation of this Agreement, Annexes to this Agreement, including the attached Project Document (Annex-A) and UNEP Project Manual (as revised from time to time) shall be construed as an integral part of this Agreement.

Clause II **Objective and Scope**

1. The Agreement sets forth the terms and conditions of the cooperation between the Parties for achieving the Project objectives, as set out in the Project Document (Annex A).
2. The Parties agree to cooperate with each other at all times and maintain close working relationships in order to achieve the objectives of the Project.

Clause III **Duration**

1. The term of the Agreement shall commence on *[date of start of Agreement]* and expire on *[date of end of Agreement]* pursuant to the time frame or schedule as set out in the Project Document (Annex-A).
2. Should it become evident during the implementation of the Project that an extension beyond the agreed expiry date (as set out in paragraph 1 above) is required to achieve the objectives of the Project, the Parties shall consult with each other with a view to entering into an agreement on the need and duration of such extension. Upon reaching an agreement, the Parties shall immediately conclude an amendment to the Agreement to this effect, in accordance with Clause XVII, below.

Clause IV **Cooperation**

1. The Parties shall carry out their respective responsibilities in accordance with the provisions of the Agreement, and shall undertake the Project in accordance with UNEP policies and procedures as stipulated in the UNEP Project Manual, which forms an integral part of the present Agreement.
2. UNEP shall determine and communicate to [the Partner] the person (or unit) having the ultimate authority and responsibility for the Project implementation on its behalf. A focal point shall also be appointed by (the Partner), in consultation with UNEP **and with the approval of the government coordinating authority where appropriate**.
3. The Parties shall keep each other informed of all activities pertaining to the Project and shall consult once every [] months on issues that may have a bearing on the status of either Party in the country or that may affect the achievement of the objectives of the Project, with a view to reviewing the Implementation Plan and Budget of the Project accordingly.

4. The Parties shall cooperate with each other in obtaining any licenses and permits required by national laws, where appropriate and necessary for the achievement of the objectives of the Project. The Parties shall also cooperate in the preparation of any reports, statements or disclosures, which are required by national law.

5. (the Partner) shall only use the name and emblem of the United Nations or UNEP with prior written consent of UNEP.

6. UNEP will facilitate access to information, advisory services, technical and professional support available to UNEP and will assist (the Partner) to access the advisory services of other United Nations organizations, whenever necessary.

7. The Parties shall cooperate in any public relations or publicity exercises, when UNEP deems these appropriate or useful.

Clause V **Personnel**

1. (The Partner) shall be solely and completely responsible and accountable for all services performed by its personnel, agents, employees, or contractors (hereinafter referred to as "Personnel").

2. Personnel of [the Partner], its contractors or anyone else working for (the Partner) in the execution of the Project or otherwise, are not employees of UNEP and are not covered by the privileges and immunities applying to UNEP and its staff pursuant to the Convention on the Privileges and Immunities of the United Nations. UNEP shall not accept any liability for claims arising out of the activities performed under the Agreement, or any claims for death, bodily injury, disability, damage to property or other hazards that may be suffered by [the Partner's] Personnel as a result of their work pertaining to the Project under this Agreement.

3. (The Partner) shall ensure that its personnel meet the highest standards of qualification and technical and professional competence necessary for the achievement of the objectives and results of the Project, and that decisions on employment related to the Project shall be free of discrimination of any nature. (The Partner) shall ensure that all personnel are free from any conflicts of interest relative to the Project activities.

Clause VI **Terms and Obligations of [the Partner]**

1. (The Partner) undertakes to be bound by the terms and obligations specified below, and shall accordingly ensure that the personnel performing project-related activities under the present Agreement comply with these obligations:

(a) [The Partner] shall not seek nor accept instructions regarding the activities under the present Agreement from any Government or other authority external to UNEP;

(b) [The Partner] shall refrain from any conduct that would adversely reflect on the United Nations and shall not engage in any activity which is incompatible with the aims and objectives of the United Nations or the mandate of UNEP;

(c) Information that is considered confidential shall not be used without the authorization

of UNEP. In any event, such information shall not be used for individual profit. [The Partner's] focal point for this Project may communicate with the media regarding the methods and scientific procedures used by [the Partner]; however, UNEP clearance is required for the use of the name UNEP in conjunction with Project activities in accordance with Clause IV (5), above. This obligation shall not lapse upon termination of the present Agreement unless otherwise agreed between the Parties.

Clause VII **Equipment and Supplies**

1. Equipment, non-expendable materials, or other property furnished or financed by UNEP shall remain the property of UNEP and shall be returned to UNEP upon completion of the Project or upon termination of this Agreement, unless otherwise agreed upon between the Parties **[and in consultation with the government coordinating authority]**. During Project implementation and prior to its return to UNEP, (the Partner) shall be responsible for the proper custody, maintenance and care of all equipment. (The Partner) shall, for the protection of such equipment and materials during implementation of the Project, obtain appropriate insurance in such amounts as may be agreed upon between the Parties and incorporated in the Project Budget.
2. (The Partner) shall place on the supplies, equipment and other materials it furnishes or finances such markings as will be necessary to identify them as being provided by UNEP.
3. In cases of damage, theft or other losses of vehicles and other property made available to (the Partner), (the Partner) shall provide UNEP with a comprehensive report, including police report, where appropriate, and any other evidence giving full details of the events leading to the loss of the property.
4. In its procedures for procurement of goods, services or other requirements with funds made available by UNEP as provided for in the Project Document, (the Partner) shall ensure that, when placing orders or awarding contracts, it will safeguard the principles of highest quality, economy and efficiency, and that the placing of such orders will be based on an assessment of competitive quotations, bids, or proposals unless otherwise agreed to by UNEP.
5. (The Partner) shall maintain complete and accurate records of equipment, supplies and other property purchased with UNEP funds and shall take periodic physical inventories. (The Partner) shall provide UNEP annually with the inventory of such equipment, property and non-expendable materials and supplies, and at such time and in such form as UNEP may request.

Clause VIII **Intellectual Property Rights**

1. Any publications prepared or produced pursuant to this Agreement will give appropriate credit to UNEP and shall include UNEP's logo in a manner as stipulated under Clause IV(5) above. UNEP and [the Partner] shall agree upon the question of copyrights and all other related rights in any material produced under the provisions of the Agreement.
2. For the purpose of this Agreement, Intellectual property would mean information, ideas, inventions, innovations, art work, data, designs, literary texts and any other matter or thing whatsoever as may be capable of legal protection or be subject to legal rights and shall include patents; information which is of a kind that has been communicated in such a manner as to give

rise to a duty of confidentiality; copyright vesting in literary works (including but not limited to computer programmes); dramatic works, musical works, broadcast, published editions and other types of performance; registered trademarks; unregistered trademarks used or intended for use in business registered designs and designs capable of being registered; biological organism varieties and the rights of breeders of such varieties; layout design of integrated circuits; databases; and any other rights resulting from intellectual activity in the industrial, commercial, scientific, literary and artistic fields.

Clause IX **Financial and Operational Obligations**

1. In accordance with the Project Budget, UNEP will make available to (the Partner) funds up to the maximum amount of *[total amount of Contribution]*. The first installment of [amount of first installment] will be advanced to (the Partner) within *[number]* working days following signature of the present Agreement. The second and subsequent installments will be advanced to (the Partner) quarterly, within [] days after a financial report and other agreed-upon documentation, as referenced in Clauses XI and XII below, for the activities completed have been submitted to and accepted by UNEP as showing satisfactory management and use of UNEP resources.

2. The Parties shall make all reasonable efforts to comply with Clauses IX (1) and XI, failing which, UNEP may withhold further disbursements due to [the Partner] or [the Partner] may suspend the Project until such time the Parties meet their respective financial and operational obligations.

3. (The Partner) agrees to utilize the funds and any supplies and equipment provided by UNEP in strict compliance with the Project Document. (The Partner) shall notify UNEP about any expected variations on the Project during the quarterly consultations set forth in paragraph 1 above. (The Partner) shall be authorized to make variations not exceeding [] per cent on any one line item of the Project budget provided that the total budget allocated by UNEP is not exceeded. Any variations exceeding [] per cent on any one line item that may be necessary for the proper and successful implementation of the Project shall be subject to prior consultations with and approval by UNEP.

4. (The Partner) further agrees to return within two weeks any unused supplies made available by UNEP at the termination or end of the present Agreement or the completion of the Project. Any unspent funds shall be returned within two months of the termination of the present Agreement or the completion of the Project.

5. UNEP shall not be liable for the payment of any expenses, fees, tolls or any other financial cost not outlined in the Project or Plan or Project budget unless UNEP has explicitly agreed in writing to do so prior to the expenditure by (the Partner).

Clause X **Maintenance of Records**

1. (The Partner) shall keep accurate and up-to-date records and documents in respect of all expenditures incurred with the funds made available by UNEP to ensure that all expenditures are in conformity with the provisions of the Project Document. For each disbursement, proper supporting documentation shall be maintained, including original invoices, bills, and receipts pertinent to the transaction.

2. Upon completion of the Project/or Termination of the Agreement, (the Partner) shall maintain the records for a period of at least [] years unless otherwise agreed upon between the Parties.

Clause XI **Reporting Requirements**

1. Six (6) months after signature of this Agreement, and every six (6) months thereafter, except where otherwise agreed, (the Partner) shall provide UNEP [and the government coordinating authority where appropriate] with narrative progress reports on the Project. The Progress Reports shall include the status of activities, outputs delivered, results/impacts achieved and an assessment of whether the Project is being implemented in accordance with the agreed Project Implementation Plan and the Project Budget, and a description of any obstacles to full and timely implementation of the Project.

2. (The Partner) shall also submit Financial Reports on a quarterly basis:

(a) (The Partner) shall prepare a Financial Report and submits it to the UNEP no later than 30 days after the end of each quarter.

(b) The purpose of the financial report is to request a quarterly advance of funds, to list the disbursements incurred on the Project by budgetary component on a quarterly basis, and to reconcile outstanding advances and foreign exchange loss or gain during the quarter.

(c) The financial report has been designed to reflect the transactions of a project on a cash basis. For this reason, unliquidated obligations or commitments should not be reported to UNEP, i.e., the reports should be prepared on a “cash basis”, not on an accrual basis, and thus will include only disbursements made by (the Partner) and not commitments. However, (the Partner) shall provide an indication when submitting reports as to the level of unliquidated obligations or commitments, for budgetary purposes.

(d) The financial report contains information that forms the basis of a periodic financial review and its timely submission is a prerequisite to the continuing funding of the Project. Unless the Financial Report is received, the UNEP will not act upon requests for advances of funds.

(e) Any refund received by [the Partner] from a supplier should be reflected on the financial report as a reduction of disbursements on the component to which it relates.

3. Within two months of the completion of the Project or of the termination of the present Agreement, (the Partner) shall submit a final report on the Project activities and include a final financial report on the use of UNEP funds, as well as an inventory of supplies and equipment.

4. UNEP reserves the right to withhold any payment(s) due to [the Partner] for its non-compliance to Clauses X and XI (1-3) above.

Clause XII **Audit Requirements**

1. [The Partner] shall submit to UNEP within six months of the end of [the Partner’s] fiscal

year, a copy of its consolidated audited financial statements, wherein UNEP funding is clearly identified, issued by an independent audit authority and as presented to and endorsed by [the Partner's] governing body. The audit report and recommendation should include such comments as the auditor may deem appropriate in respect of UNEP funded operations generally and, in particular, the opinion should clearly indicate that UNEP funds were covered by the scope of the audit.

Clause XIII **Responsibility for Claims**

1. (The Partner) shall indemnify, hold and save harmless, and defend at its own expense, UNEP, its officials and persons performing services for UNEP, from and against all suits, claims, demands and liability of any nature and kind, including their cost and expenses, arising out of the acts or omissions of (the Partner) or its employees or persons hired for the management of the present Agreement and the Project.
2. (The Partner) shall be responsible for, and deal with all claims brought against it by its Personnel, employees, agents or subcontractors.

Clause XIV **Suspension and Termination**

1. The Parties hereto recognize that the successful completion and accomplishment of the purposes of a technical cooperation activity are of paramount importance, and that UNEP may find it necessary to terminate the Project, or to modify the arrangements for the management of the Project, should circumstances arise that jeopardize successful completion or the accomplishment of the purposes of the Project. The provisions of the present Clause shall apply to any such situation.
2. UNEP shall consult with (the Partner) if any circumstances arise that, in the judgment of UNEP, interfere or threaten to interfere with the successful completion of the Project or the accomplishment of its purposes. (The Partner) shall promptly inform UNEP of any such circumstances that might come to its attention. The Parties shall cooperate towards the rectification or elimination of the circumstances in question and shall exert all reasonable efforts to that end, including prompt corrective steps by (the Partner), where such circumstances are attributable to it or within its responsibility or control. The Parties shall also cooperate in assessing the consequences of possible termination of the Project on the beneficiaries of the Project.
3. UNEP may at any time after occurrence of the circumstances in question, and after appropriate consultations, suspend the Project by written notice to (the Partner), without prejudice to the initiation or continuation of any of the measures envisaged in paragraph 2, above, of the present Clause. UNEP may indicate to (the Partner) the conditions under which it is prepared to authorize management of the Project to resume.
4. If the cause of suspension is not rectified or eliminated within [] days after UNEP has given notice of suspension to (the Partner), UNEP may, by written notice at any time thereafter during the continuation of such cause: (a) terminate the Project; or (b) terminate the management of the Project by (the Partner), and entrust its management to another institution. The effective date of termination under the provisions of the present paragraph shall be specified by written notice from UNEP.
5. Subject to paragraph 4 (b), above, of the present Clause, (the Partner) may terminate the

present Agreement in cases where a condition has arisen that impedes (the Partner) from successfully fulfilling its responsibilities under the present Agreement, by providing UNEP with written notice of its intention to terminate the present Agreement at least 30 days prior to the effective date of termination if the Project has a duration of up to six months and at least 60 days prior to the effective date of termination if the Project has a duration more than six months.

6. (the Partner) may terminate the present Agreement only under point 5, above, of the present Clause, after consultations have been held between (the Partner) and UNEP, with a view to eliminating the impediment, and shall give due consideration to proposals made by UNEP in this respect.

7. Upon receipt of a notice of termination by either Party under the present Clause, the Parties shall take immediate steps to terminate activities under the present Agreement, in a prompt and orderly manner, so as to minimize losses and further expenditures. (The Partner) shall undertake no forward commitments and shall return to UNEP, within 30 days, all unspent funds, supplies and other property provided by UNEP unless UNEP has agreed otherwise in writing.

8. In the event of any termination by either Party under the present Clause, UNEP shall reimburse (the Partner) only for the costs incurred to manage the project in conformity with the express terms of the present Agreement. Reimbursements to (the Partner) under this provision, when added to amounts previously remitted to it by UNEP in respect of the Project, shall not exceed the total UNEP allocation/contribution for the Project.

9. In the event of transfer of the responsibilities of (the Partner) for the management of a Project to another institution, (the Partner) shall cooperate with UNEP and the other institution in the orderly transfer of such responsibilities.

Clause XV **Force Majeure**

1. In the event of and as soon as possible after the occurrence of any cause constituting force majeure, the Party affected by the force majeure shall give the other Party notice and full particulars in writing of such occurrence if the affected Party is thereby rendered unable, in whole or in part, to perform its obligations or meet its responsibilities under the present Agreement. The Parties shall consult on the appropriate action to be taken, which may include suspension of the present Agreement by UNEP, in accordance with Clause XIV, paragraph 3, above, or termination of the Agreement, with either Party giving to the other at least [] days written notice of such termination.

2. In the event that the present Agreement is terminated owing to causes constituting Force Majeure, the provisions of Clause XIV, paragraphs 8 and 9, above, shall apply.

Clause XVI **Arbitration**

3. The Parties shall try to settle amicably through direct negotiations, any dispute, controversy or claim arising out of or relating to the present Agreement, including breach and termination of the Agreement. If these negotiations are unsuccessful, the matter shall be referred to arbitration in accordance with United Nations Commission on International Trade Law Arbitration Rules. The Parties shall be bound by the arbitration award rendered in accordance with such arbitration, as the final decision on any such dispute, controversy or claim.

Clause XVII
Privileges and Immunities

1. Nothing in or relating to this Agreement shall be deemed a waiver, express or implied, of any of the privileges and immunities of the United Nations and UNEP.

Clause XVIII
Notification and Amendments

1. The Parties shall notify each other in writing on any proposed variation/ modification/ amendment to the Agreement, including its Annexes, with a view to attain an agreement on such amendment.

2. This Agreement or its Annexes may be modified or amended only by written agreement between the Parties.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have on behalf of the Parties hereto signed the present Agreement at the place and on the day below written.

For: United Nations Environment Programme

For: [the Partner]

By: _____
Name
Division/Regional Director

By: _____
Name
Title

ANNEX A:
ANNEX B:

[dd/mm/yy]