

Wetlands International General Conditions applicable to Project Contracts

version 1.0

Between:

1. Wetlands International
and
2. the 'Contracted Party',

hereinafter jointly referred to as 'Parties' and individually also as 'Party'.

Whereas:

- A. Wetlands International's mission is to sustain and restore wetlands, their resources and biodiversity;
- B. Wetlands International is an international NGO. It provides tools and knowledge to assist governments, corporates and society in the conservation and restoration of wetlands. Wetlands International aims to influence relevant policies, conventions and treaties. Wetlands International is a source of best-informed opinion on key issues affecting wetlands and priority actions for their conservation and wise use, drawing on scientific analyses and its own experience in global and national conservation programmes;
- C. The Contracted Party is engaged in related business
- D. The Contracted Party wishes to perform the project as described in the Annexes
- E. Within the framework of the Contract, Wetlands International wishes to enter into an agreement with the Contracted Party on a project basis;
- F. Parties have the intention to enter into an agreement as described in Arts. 7:400 et seq of the Dutch Civil Code. Parties declare that these articles will apply to the Contract;

Signed parties have agreed as follows:

Article 1 Assignment

- 1.1 Wetlands International assigns the Contracted Party to perform the work as described in the Annexes; this assignment (hereafter referred to as: 'Assignment') is accepted by the Contracted Party.
- 1.2 The Contracted Party will allocate adequate human and material resources, as well as operational support, necessary for the successful completion of the Assignment, the activities described in the Contract and the respective annexes.
- 1.3 Without written approval, no changes are allowed to the project as set out in the Annexes.

Article 2 Compensation, Expenses, and Reports

- 2.1 Wetlands International will fund activities within the Assignment within the project period.
- 2.2 The first instalment will be paid after receipt by Wetlands International of the signed Contract. Following instalments will be paid immediately after the approval of the financial and technical progress reports (hereafter referred to as: "Progress Reports"), which shall include an expenditure forecast for the next period. A timetable for reporting is provided on page 2 of the Project Contract.
- 2.3 The funds shall be transferred in advance instalments, amounting to a maximum of 95% of the total grant amount. The remainder balance will be paid after approval by Wetlands International of the final technical and financial reports and receipt of the audit report (if required, see front page). The exact final payment amount will be based on a full account of all income and expenditures of the project and will be no more than the total agreed in the approved budget.
- 2.4 Any part of the funding provided by Wetlands International which is unspent by the end of the project period will have to be refunded by the Contracted Party. Financial commitments and sub-contracts made by the Contracted Party before the end of the project period may be included in the final financial report if the expense occurs not later than the final financial report due date.
- 2.5 The agreed budget included in Annex is comprehensive and is sufficient to ensure completion of the work specified in the Terms of Reference, attached as Annex.
- 2.6 Wetlands International will only make payments to the Contracted Party after funds from the back donor have been received.
- 2.7 Exchange rate differences and bank charges may be included as expenses and/or gains in financial reports.
- 2.8 Any income earned from interest on the contribution of Wetlands International will be used for the approved project only and will be accounted for and separately mentioned in the progress and final financial reports.
- 2.9 The Contracted Party shall provide Wetlands International with all necessary information for payments to be made under the Contract, including Name and Address of Bank Account holder, Bank Account number, Name and Address and Swiftcode of Bank (see last page of the Contract).
- 2.10 Formats and guidelines for financial reports will be provided by Wetlands International. Use of these formats by the Contracted Party is compulsory.

- 2.11 Costs committed before or after the project period cannot be claimed by the Contracted Party without prior written agreement of Wetlands International.
- 2.12 Purchase of vehicles, office computer equipment or other electronic goods over Euro 2,500/item will need prior written approval by Wetlands International. Without written approval the costs of such goods will not be seen as eligible costs and cannot be accounted for in the financial report.
- 2.13 Wetlands International reserves the right to reduce its funds, stop transfers prematurely or claim repayment of all or part of the funds transferred, among others, if contractual obligations inclusive reporting and accounting obligations are not met or it emerges, either from the requested reporting or from some other source, that funds are not being used for the purposes for which they have been made available for or if alternative funding proves to have been acquired for the same activities which was not known to Wetlands International. Wetlands International will initiate such reduction or termination only after consultation with the Contracted Party, after which accounts will be settled on the basis of costs made and taking into account, within reasonable limits, financial obligations entered into by the Contracted Party for the future.
- 2.14 On the basis of the financial reports from the Contracted Party, Wetlands International reserves the right to reallocate unallocated funds.
- 2.15 Six weeks before the end of the Assignment, the Contracted Party will provide Wetlands International with an inventory of all goods and equipment with a value over Euro 500/item, purchased from the approved budget, indicating their condition. In consultation with Wetlands International these goods will be either transferred to a third party or donated to the Contracted Party and assigned to a relevant purpose. The Contracted Party will account for this in the final financial report.
- 2.16 Wetlands International reserves the right to conduct an investigation into the activities carried out by the Contracted Party in the framework of the Contract, including the reporting and financial administration. If such an investigation is initiated. The Contracted Party will co-operate fully with the officials appointed by Wetlands International to conduct such an investigation of the project's implementation. If such an investigation is initiated, the cost occurred will be fully covered by Wetlands International.
- 2.17 Changes of the budget lines/items which exceed 10% of the amounts as laid down in the approved budget need written prior approval by Wetlands International contact person. The use of contingencies always needs prior approval. Over-expenditure of the total grant amount is at the cost of the Contracted Party.
- 2.18 All payments by Wetlands International to the Contracted Party are gross. This means that Parties assume that all payable tax liabilities and social security premiums are for the account and the risk of the Contracted Party.
- 2.19 The Contracted Party has no claim, other than the total funding amount, for compensation and expenses whatsoever towards Wetlands International.
- 2.20 The bank costs of transferring funds to the Contracted Party shall be borne by Wetlands International. All other bank costs shall be included in the project budget.

Article 3 Special Obligations of Contracted Party

- 3.1 The Contracted Party shall keep separate and accurate financial records in accordance with generally accepted accounting principles and procedures throughout the period of the Contract. Furthermore the Contracted Party will keep all original receipts for accounting purposes for a period of 10 years.
- 3.2 The Contracted Party shall act and inform Wetlands International according to all instructions as stipulated in the Contract and the Annexes.

- 3.3 The Contracted Party is obliged to follow all instructions given by Wetlands International and/or her accountant for the preparation of the financial reports.
- 3.4 At first request of Wetlands International, the Contracted Party will make all or any of the contracts with third parties assigned by the Contracted Party as well as the name/address information of the subcontractors, available for inspection by Wetlands International.
- 3.5 By signing the contract the Contracted Party acknowledges to have taken notice of the content of Wetlands International Financial Control and Sanctions Policy for Contracting Out (available at www.wetlands.org/about-us/our-accountability as well as upon request) and confirms to apply the policy where and whenever necessary and to impose application of this policy on any other party involved in the contract including sub-contractors.
- 3.6 If and when Wetlands International has strong indications that a sub-contractor assigned by the Contracted Party is not trustworthy or honourable, the Contracted Party will, at its own costs, terminate the contract with the alleged subcontractor with immediate effect.
- 3.7 By signing the contract the Contracted Party acknowledges to have taken notice of the content of Wetlands International Anti-Corruption Policy (available at www.wetlands.org/about-us/our-accountability as well as upon request) and confirms to apply the policy where and whenever necessary and to impose application of this policy on any other party involved in the contract including sub-contractors.
- 3.8 For any communication (publications, printed reports, web publishing and others) regarding the Assignment, the Contracted Party shall follow the Publications Manual and Corporate Identity Guide provided by Wetlands International. The Contracted Party shall use the official logos of Wetlands International and other involved partners.
- 3.9 The Contracted Party agrees to publicise Wetlands International and its back donor as the source of project financing in any documentation related to the project as follows: *“This project has been carried out with financial support from Wetlands International under the project [mention name of project] financed by [mention name of back donor]”*.
- 3.10 The Contracted Party will not make misuse of the funds granted by Wetlands International. If the Contracted Party acts in conflict with this provision, Wetlands International may terminate the Contract immediately, without prejudice to any right to claim full compensation and without prejudice to the articles 6 and 10.
- 3.11 Wetlands International reserves the right to evaluate the project at any moment during the Assignment, in which case the Contracted Party will, on first request of Wetlands International, provide its full cooperation.
- 3.12 The Contracted Party will enforce all obligations arising from this Project Contract to all its sub-contractors. The Contracted Party will be held liable for all damages caused by sub-contractors who do not act in accordance to the provisions of this Project Contract.
- 3.13 For all contracts with funding amounts equal to or above EUR 100,000 an annual external project audit carried out by an internationally accredited audit firm is compulsory. The audit costs are to be borne by the Contracted Party and form part of the project funding. In the event that an international accredited auditing firm is not available locally, the Contracted Party may apply to Wetlands International for approval to hire a locally accredited audit firm. It is at the sole discretion of Wetlands International and the back donor to honour and approve such application. If not stated otherwise in an annex, the project audit will be based on the financial report of each project year.
- 3.14 Wetlands International reserves the right to request the Contracted Party at any moment during the execution of the project to produce the latest annual accounts of Contracted Party’s organisation and accompanying external audit report.

Article 4 Reporting

- 4.1 The Contracted Party shall report project progress to Wetlands International according to the reporting schedule mentioned on page 2 of the Contract, by submitting reports which show the technical progress (in summary) of the work, as described in the Annexes and the actual expenditures in accordance with the budget lines shown in the Approved Budget described in the Annexes. These progress reports need to include a work plan and a cash flow forecast for the next reporting period. Upon approval of the progress reports the next instalments will be transferred.
- 4.2 On completion of the Assignment a final report will be presented including a technical report and a financial report covering the total Contract period. This final report should be submitted according to the reporting schedule mentioned on page 2 of the Contract. The technical report needs to provide information on the implementation process, the outcomes, the constraints and the success of the project and follow up activities if appropriate.
- 4.3 The reports must be sent in a timely manner. Reports can be sent by email, fax and/or mail. Wetlands International must receive an original signed copy of the external auditors report (when required, see page 2).
- 4.4 Wetlands International will react to the reports of the Contracted Party within 4 weeks after receipt of the report and clarify whether or not the report has been accepted.

Article 5 Duration and termination of the Contract

- 5.1 The Contract shall have effect on the starting date of the project period and remain in force until the end date or until full completion of the Assignment, whichever is sooner.
- 5.2 The Contract can be terminated by mutual consent that shall be expressed in a written agreement.
- 5.3 The Contract can be terminated:
- (i) immediately if the other Party applies or any of its creditors apply for an adjudication in bankruptcy or a suspension of payments with respect to that other Party;
 - (ii) immediately if the other Party is declared bankrupt or granted a (preliminary) suspension of payments;
 - (iii) Wetlands International and/or the Contracted Party decide(s) to dissolve or decide(s) to (legally) enter into a merger or acquisition, decide(s) to cease activities factually or change(s) its activities substantially or continue(s) them in another legal form which can reasonably be expected to influence the performance of the Contract. If either Wetlands International or the Contracted Party determines that the other Party has committed a breach of the terms of the Contract, it may provide that other Party with a written notice requiring that the breach be remedied within 30 days after receipt of this notice. If the Party receiving such notice fails to remedy the breach within the time specified, or if the breach cannot be remedied, the other Party may terminate the Contract. Termination of the Contract will be effectuated by a second, written notice, and will be effective upon receipt of this notice.
- 5.4 Either Party may terminate the Contract 90 days after giving written notice to the other Party thereof. The Parties agree to consult with each other as to the reason for termination and as to the effect of termination of the project, and to assist each other in the prompt settlement or transition of the project. The Party terminating the Contract is responsible for any operational costs that have to be made by the other Party as a result of this termination. The Party terminating the Contract must declare these costs to the other Party within the

aforementioned 90 days. Costs made or declared after this period will not be taken into account. The Operational costs resulting from termination of the Contract are defined as costs directly related to terminating operation of the project by the Contracted Party itself. Costs related to contractual obligations between the Contracted Party and third parties fall under the responsibility of the Contracted Party. The Contracted Party is responsible for paying due attention to the consequences of a termination when contracting other parties and for including appropriate settlement measures in the relevant contracts and agreements.

- 5.5 If any of the funders or the back donor of Wetlands International suspends, alters or terminates the Contract with Wetlands International related to this project, Wetlands International may, in addition to other termination rights specified in the Contract, terminate the Contract by giving written notice to the Contracted Party. The notice will become effective at the date of receipt of written notification by Wetlands International or the date of suspension/termination specified by the funders or back donor of Wetlands International, whichever is the latest.
- 5.6 Wetlands International has the right to terminate the Contract immediately if it emerges that the amounts (including the advances) paid are not being used for the purposes for which they have been made available or if alternative funding proves to have been acquired for the same activities without the written approval of Wetlands International.

Article 6 Indemnification and Exoneration

- 6.1 For the duration of the Contract the Contracted Party is liable for damage suffered by Wetlands International resulting from (an) attributable shortcoming(s) or an unlawful action committed by the Contracted Party.
- 6.2 The Contracted Party indemnifies Wetlands International for all damages Wetlands International is held responsible for and which damages the Contracted Party causes or will cause to Wetlands International or any other third party in the execution of the Assignment.
- 6.3 The Contracted Party shall indemnify Wetlands International for all possible claims of Tax or Social Security Authorities resulting from the Contract for taxations and/or social security premiums including fines and legal interests.
- 6.4 Without prejudice to an intentional act or recklessness of Wetlands International, Wetlands International is not liable towards the Contracted Party for damages the Contracted Party, its employees or subcontractors suffer or will suffer in the execution of the Contract and its Assignment.
- 6.5 Notwithstanding the stipulations of this article, Wetlands International's liability will be, in all circumstances, limited to the total amount covered by a professional liability insurer.

Article 7 Insurance and security

As from the date of the execution of the Contract, the Contracted Party is responsible for the security of its project staff and the Contracted Party will take out professional liability insurance.

Article 8 Intellectual property rights

- 8.1 All rights, including intellectual property rights, of any materials or information prepared or supplied by Wetlands International, remain with Wetlands International. Such materials

might include, but are not limited to, both electronic and hard copy presentation materials, handouts, posters, visual images, or similar media.

- 8.2 All intellectual property rights (to be claimed) in materials, goods and services prepared or developed by the Contracted Party in connection with the Contract, shall be shared with Wetlands International. The Contracted Party shall disclose to Wetlands International all information and provide Wetlands International with all documents reasonably required to exercise these rights.

Article 9 Penalty

If the Contracted Party does not fulfil its obligations under the Contract, in particular the obligations mentioned under article 2 of the Contract, Wetlands International has the right to, among others, reduce its payments, stop transfers prematurely or claim repayment of all or part of the funds transferred.

Article 10 General Clauses

- 10.1 The Contract contains the entire agreement between the Parties relating to the subject matter of the contract at the date hereof to the exclusion of any terms implied by law which may be excluded by contract, and supersedes any previous written or oral agreement between the Parties in relation to the matters dealt with in the Contract.
- 10.2 The annexes to the Contract are integral part of the Contract and are inextricably bound to it and to each other. A reference to the Contract therefore implies a reference to its Annexes. If part of the Annexes conflict with the Contract, the latter will prevail.
- 10.3 Partial disregard or change of stipulations as well as any amendment to the Contract is only binding if agreed between the Parties in writing.
- 10.4 The Contracted Party is requested to state the Project Contract number in all correspondence, and when using email, to include this number in the subject line.
- 10.5 The Contracted Party can submit any grievance in relation to the implementation of the Assignment through the Complaints Procedure of Wetlands International.

Article 11 Confidentiality

- 11.1 The Contracted Party is obliged to respect confidentiality requirements of Wetlands International's partners. Where for commercial, strategic or other reasons, a partner designates any information confidential, the subcontractor who has access to this information shall abide by the confidentiality requirements with respect to such information. The grantee is obliged to respect confidentiality requirements both during and after the completion of the Assignment under this Project Contract. Copies of confidential information made available during the course of the work should be returned to Wetlands International after completion of the assignment under this Project Contract. The grantee is obliged to destroy all copies of confidential electronic documents after completion of the Assignment.
- 11.2 The grantee shall enforce the confidentiality conditions refer in section 11.1 to all employees and sub-contracts involved in performing the Assignment under this Project Contract.

Article 12 Applicable Law and Dispute Solution

- 12.1 The Contract shall be governed by Dutch law.
- 12.2 All disputes resulting from the Contract shall be solved amicably if possible. This shall not prejudice the right of the Party who is of the opinion that the subject of the dispute is so urgent that no delay is possible to submit the dispute for settlement to the President of the competent Court of Arnhem. If Parties do not succeed in solving their disputes amicably, each Party is entitled to bring its case to the competent Judge of Arnhem.