

August 05, 2021

Ernesto Ráez Luna
Executive Director
Instituto del Bien Común (IBC)
Jr. Mayta Cápac 1329, Jesús Maria.
Lima,

Re: Grant Number G-2107-57819

Dear Ernesto:

The Climate and Land Use Alliance (“CLUA”) is pleased to inform you that Instituto del Bien Común (IBC) (“the Grantee”) has been awarded a grant in the amount of \$91,001 for the period from August 01, 2021 through July 31, 2022.

By signing this grant agreement, the Grantee agrees to the following terms and conditions regarding this grant:

- 1) **Grant Purpose:** The purpose of the grant is to support the recognition of ethnic communities’ territorial rights in Perú, with an emphasis on the Kakataibo communities as described in your proposal received July 28, 2021. Your proposal is an integral part of this grant agreement, and it is agreed that all grant funds will be used exclusively for the purposes detailed in your proposal.
- 2) **Payment:**
 - a. **Payment Disbursements:** Upon receipt of the countersigned original of this agreement, CLUA will pay the grant as follows:

Date (approx.)	Amount	Contingency
August 26, 2021	\$91,001	Signed award letter returned to CLUA

- b. Wire Transfers: Grant funds will be paid by CLUA in US Dollars via wire transfer. The Grantee will provide CLUA with funding instructions from its financial institution using the wire transfer form provided. Bank fees associated with the wire transfer incurred by the Grantee are the responsibility of the Grantee. These costs should be covered by the Grantee's overhead budget.
- 3) Grant Funding Supported by The Government of Norway's Climate and Forests Initiative (NICFI): This grant is supported through funding provided to CLUA by NICFI. As such, the CLUA grant funds for this project are subject to all provisions of the CLUA-NICFI agreement as outlined in Annex I (General Conditions), and Annex II (Procurement Provisions). Where there is a discrepancy between the Annexes and the CLUA grant agreement, the CLUA grant agreement shall prevail. Provisions of the CLUA-NICFI agreement are inclusive of, but not limited to the following:
- a. CLUA, the Norwegian Ministry of Climate and Environment and the Norwegian Auditor General shall have the same access to undertake the control measures related to the cooperating partner's use of the Grant as described in article 6 of the General Conditions,
 - b. CLUA shall be entitled to claim repayment of the Grant from the Grantee in the same instances and to the same extent that the Norwegian Ministry of Climate and Environment is entitled to claim repayment from CLUA, and the Grantee shall accept that the Norwegian Ministry of Climate and Environment has the right to claim repayment directly from the Grantee to the same extent as CLUA,
 - c. The Grantee shall accept the choice of law and settlement of disputes provisions in article 24 of the General Conditions in relation to any disputes arising between the cooperating partner and the Norwegian Ministry of Climate and Environment.
- 4) Use of Grant Funds: Under United States tax laws and by the terms of this agreement, all grant funds must be expended solely for charitable, scientific, literary, or educational purposes as described in Section 170(c)(2)(B) of the Internal Revenue Code. This grant is made solely for the purposes stated in this letter, and the grant funds, as well as any income earned upon them, may not be expended for any other purpose. Any funds (including income earned on grant funds) not expended or committed for the purposes of the grant shall be returned to CLUA.
- a. Anti-Terrorist Financing: The Grantee further ensures that grant funds under this award will be used in compliance with all applicable anti-terrorist financing and asset control laws, regulations, rules, and executive orders. The Grantee also agrees to take all reasonable precautions to ensure that any person or group expected to receive money from the Grantee will neither make any payment nor provide any material support to any person on any United States government list of suspected terrorists (such as the list of Specially Designated Nationals maintained by the U.S. Treasury Department's Office of

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Foreign Assets Control) or to any organization having one or more directors or key personnel included on any such list.

b. Prohibitions:

- i. Lobbying: This agreement specifically prohibits use of the grant funds for any of the following purposes with respect to either the United States or any foreign country: 1) lobbying -- that is, any attempt to influence any legislation as defined for purposes of [Section 4911 of the Internal Revenue Code of the United States](#); 2) carrying on, directly or indirectly, any voter registration drive; or 3) intervening in any election for public office on behalf of, or in opposition to, any candidate. The Grantee understands that it is the Grantee's obligation, independent of CLUA, to determine if it has any registration or reporting requirements under any applicable lobbying, gift, ethics, or other laws related to the use of these funds.
 - ii. Travel to/from the United States: The Grantee agrees that none of the funds from this grant may be used for travel to or from the United States or for activities conducted in the United States.
 - iii. Capital Expenses: The Grantee is prohibited from expending funds from this grant on equipment with a total value equal to \$5,000 or more.
 - iv. Influencing U.S. Government and Public Opinion: The Grant shall not be used by the Grantee or by its subgrantees or subcontractors to engage in any activity that would require registration under the Foreign Agents Registration Act, 22 U.S.C. § 611 et seq., including any activity in the United States intended to influence any agency or official of the United States government or United States public opinion regarding the domestic or foreign policies of the United States or the interests, policies, or relations of any foreign government or foreign political party.
- c. Treatment of Interest: Any interest earned on the grant funds by the Grantee from the investment of such funds should be used by the Grantee to cover project-related activities supporting the purpose of the grant as described above and in your proposal.

5) Reporting:

- a. Expenditure responsibility: CLUA expects the grantee to comply with expenditure responsibility rules and reporting requirements under the United States Internal Revenue Code.
- b. Narrative report: The Grantee agrees to provide a narrative report in English, using the provided template, which discusses compliance with the terms of the grant and accomplishments achieved by the expenditure of the grant funds.
- c. Financial report: The Grantee agrees to provide a full and complete financial report in English showing specifically how grant funds and the interest earned on them were spent.

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- d. Audit: The Grantee will conduct an audit of the Statement of Revenues and Expenses of the Project, at the close of the project term. The Grantee is responsible for selecting an independent chartered/certified or state-authorized public accountant (auditor) familiar with the specific country financial regulations to complete the audit. The audit will be submitted to CLUA in English once completed.
- e. Reporting Schedule:

Type of Report	Date Due
Final	August 31, 2022
Audit of Project Revenue and Expenses	October 31, 2022

- f. Certification: All financial reports submitted to CLUA must be certified as reviewed and approved by the Grantee’s CFO (or the person acting in that capacity).
- 6) Site Visits: The Grantee agrees to allow CLUA staff to conduct site visits at reasonable times upon request.
 - 7) Notifications: The Grantee shall notify CLUA of any material organizational changes during the term of the grant, including, but not limited to, changes in key personnel or changes in tax status within 30 days. CLUA reserves the right to terminate the grant if any of the key personnel leave the project during the term of the grant.
 - 8) Grant Modifications: The Grantee agrees to request changes to the grant term and/or budget in writing.
 - a. Grant end date: Written requests for no-cost extensions must be received 30 days before the end date of the grant.
 - b. Budget modifications: The Grantee must receive written approval from CLUA before making expenditures that result in 1) an increase or decrease any expense category subtotal by more than 25 percent or 2) a change in the amount of indirect costs. Changes to the budget that result in an expenditure for anything other than the Grant Purpose are not permitted.
 - 9) Maintenance of Financial Records: During the period in which any portion of the grant funds remain unexpended, those funds should be shown separately on the Grantee’s books for ease of reference and verification, and the funds must be continuously maintained (during the period in which any of the grant funds remain unexpended) in a separate fund dedicated to charitable purposes. The Grantee agrees to keep written records of receipts and expenditures under the grant adequate to enable the use of the grant funds to be checked readily, as well as copies of reports submitted to CLUA, for at least five (5) years after completion of the use of the grant funds. The records must be made available to CLUA for inspection at reasonable times.

- 10) Subgrants and Contracts: If included in the budget, the Grantee is authorized to select subgrantees and contractors to achieve the Grant Purpose. The Grantee confirms that CLUA has not required either in writing or orally that Grant funds must be used for any specific subgrantee or contractor. The Grantee is responsible for ensuring that all subgrantees and contractors use grant funds solely in a manner that is consistent with this Grant Agreement and the provisions of the CLUA-NICFI Agreement as outlined in Annex I (General Conditions) and Annex 2 (Procurement Provisions).
- 11) Re-granting: This agreement specifically prohibits use of the grant funds for
- a. making grants to other organizations (except U.S. public charities described in Sections 501(c)(3) and 509(a)(1), (2), (3)(B)(i) or (3)(B)(ii) of the Internal Revenue Code) unless the Grantee receives the prior written approval of CLUA and complies with applicable United States tax law with regard to such grants (by, for example, requiring the subgrantees to execute an agreement identical to this agreement before receiving any funds); or
 - b. making grants to individuals for travel, study, research, or similar purposes unless the Grantee receives prior written approval from CLUA and complies with Section 4945(g) of the Internal Revenue Code as if the grant were made by CLUA. This does not preclude paying for travel expenses for work performed for the grantee as part of this project.
- 12) Procurement Provisions: All procurement, funded by the grant, shall be completed in accordance with the Procurement Provisions as outlined in Annex II (Procurement Provisions) of this Agreement.
- 13) Compliance with Laws: The Grantee agrees to comply with all laws and regulations applicable to any of its activities associated with this Grant.
- 14) Publicity and Acknowledgements: CLUA may include basic information about this Grant (such as the name of the organization, the grant amount, and a brief description of its purpose) in its tax return, periodic public reports, and on its website. The Grantee may only acknowledge support for the grant activities associated with the Grant Purpose and may not imply that CLUA endorses or supports all of the Grantee's activities or initiatives. Subgrantees or contractors that receive funding through this grant may not use the CLUA name and logo in any way that creates an impression of direct support from CLUA.
- a. Publications: Any acknowledgement of this grant in the Grantee's publications should appear in a list of supporters or general acknowledgements section. The Grantee must state that CLUA does not necessarily share the positions expressed in the Grantee's publication.

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- b. Events: CLUA's name may appear in an acknowledgements section in order to identify CLUA as a supporter, as long as CLUA is not made to appear as a co-host or co-organizer of the event.
 - c. Online: CLUA's name and logo may not be used on the Grantee's website.
 - d. Press releases: Grantees must obtain written permission from CLUA before referencing CLUA in a press release. Please direct requests to use the CLUA name in press releases to communications@climateandlandusealliance.org.
 - e. Logo: All grantees must receive written permission from CLUA prior to using the CLUA logo in any way, including your publications, press releases or other communications materials. Please direct requests to use the CLUA logo to communications@climateandlandusealliance.org.
- 15) Information and Data Sharing: CLUA is a philanthropic collaborative whose members coordinate their relevant grantmaking under an integrated strategy. The Grantee agrees to allow information regarding this grant, including proposals, reports, and other communications, to be shared with CLUA members on an as-needed basis. A current list of CLUA philanthropies will be provided to the Grantee upon request.
- 16) Intellectual Property: Any intellectual property that the Grantee and any of its agents, employees, or contractors creates by the performance of this Grant Agreement shall be the property of the Grantee and/or its employees or contractors as per the policy of the Grantee.
- 17) Remedies: If CLUA determines that the Grantee has failed to or is unable to carry out any provision of this grant agreement, including but not limited to making reasonable progress towards the achievement of the Grant Purpose or reporting on how it spends the grant funds and income arising from them, CLUA may elect to withhold further grant payments under this or any other grant agreement, and CLUA may demand in writing return of all or part of any grant funds not properly spent or committed to third parties, which the Grantee will immediately repay to CLUA. Prior to terminating or curtailing the grant, the CLUA will give the Grantee thirty (30) days' advance written notice to respond to and resolve the issues, but the determination to continue, curtail, or terminate the grant will remain at CLUA's discretion.
- 18) No Promise of Future Funding: It is expressly understood that by making this grant CLUA has no obligation to provide additional funding to the Grantee to support this project or for any other purpose. Any changes, additions, or modifications to this agreement must be made in writing and must be jointly approved by CLUA and the Grantee.
- 19) Entire Agreement, Severability: This is the entire agreement between the Grantee and CLUA concerning this grant, and may be modified or waived only by a written agreement between the

Grantee and CLUA. The Grantee acknowledges that it is not relying on any representation of CLUA, except as set forth in this agreement, and that this agreement supersedes any prior verbal or written representations.

Your acceptance of this agreement and the terms and conditions above should be indicated below by your signature. Please return one executed original of this letter to CLUA via email to grants@climateandlandusealliance.org, and keep a copy for your files.


On behalf of CLUA, may I extend my best wishes for the success of your organization's endeavors.

Best regards,



Brian McCracken
Chief Financial Officer
ClimateWorks Foundation

Agreed and accepted to on behalf of Instituto del Bien Común (IBC):

Signed:  Date: 13 August, 2021
Ernesto Ráez Luna, Executive Director

**ANNEX I: GENERAL CONDITIONS
APPLICABLE TO GRANTS FROM
THE NORWEGIAN MINISTRY OF FOREIGN
AFFAIRS**

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1 IMPLEMENTATION PLAN AND BUDGET

- 1.1 Any updated implementation plan to be submitted in accordance with the Specific Conditions shall be directly related to the results framework and shall specify planned activities and outputs and time schedules for the upcoming reporting period.
- 1.2 Any updated budget to be submitted in accordance with the Specific Conditions shall be based on the approved budget in Annex A and include estimated income to the Project from all sources as well as planned expenditures for the upcoming reporting period. The estimated financial need of the Project in the upcoming reporting period shall be clearly stated.
- 1.3 Significant deviations from or changes to the implementation plan and budget is subject to the Norwegian Ministry of Climate and Environment's prior, written approval as outlined in article 12 of the General Conditions.

2 PROGRESS REPORT

- 2.1 Any progress reports to be submitted in accordance with the Specific Conditions shall describe the results achieved by the Project during the reporting period. The report shall be set up in a way that allows direct comparison with the latest approved Application, implementation plan and budget, and shall be signed by an authorised representative of the Grant Recipient.
- 2.2 The progress reports shall, as a minimum, include:
 - a) an account of the results achieved so far by the Project, using the format, indicators and targets of the approved results framework. The overview must:
 - show delivered outputs compared to planned outputs;
 - show the Project's progress towards achieving the Outcome;
 - if possible, describe the likelihood of the Impact being achieved.
 - b) an account and assessment of deviations from the latest approved implementation plan and Application;
 - c) an assessment of how efficiently Project resources have been turned into Outputs;
 - d) a brief account of materialised risk factors to the Project, including how these have been handled in the reporting period and/or will be handled in the future. Identified risks related to the climate and environment, gender equality, corruption and other financial mismanagement and human rights shall always be accounted for.

3 FINANCIAL REPORT

- 3.1 Any financial report to be submitted in accordance with the Specific Conditions shall comprise financial statements with a comparison to the latest approved budget for the reporting period, as well as an identification of any deviations from the budget as per clause 3.3 below. The financial report shall be certified by the financial controller (or equivalent) as well as an authorised representative of the Grant Recipient.
- 3.2 The financial statements shall be set up in a way that allows for direct comparison with the latest approved budget, using the same currency and budget line items. They shall, as a minimum, include:
 - a) the accounting principles applied;
 - b) income from all sources, including bank interest. The Norwegian Ministry of Climate and Environment's contribution shall be specified;
 - c) expenses charged/capitalised in the relevant reporting period;

- d) expenses charged/capitalised from start-up of the Project to the end of the reporting period;
- e) unused funds as per the reporting date;
- f) overhead/indirect costs to be covered by the Grant in accordance with article 4 of the Specific Conditions;
- g) balance sheet, when required in accordance with the accounting principles applied;
- h) explanatory notes including a description of the accounting policies used and any other explanatory material necessary for transparent financial reporting of the Project.

3.3 Deviations between the approved budget and the expenses charged/capitalised shall be highlighted with information on both nominal amounts and percentage of each deviation. The Grant Recipient shall include a written explanation of any deviations amounting to more than 10% from a budget line.

4 FINAL REPORT

4.1 The final report to be submitted in accordance with the Specific Conditions shall describe the results achieved by the Project during the Support Period. The report shall be set up in a way that allows for a direct comparison with the Application, and shall be signed by an authorised representative of the Grant Recipient.

4.2 The final report shall, as a minimum, include:

- a) the items listed for the progress reports described in article 2 of the General Conditions, covering the entire Support Period;
- b) an assessment of the Project's effect on society (Impact);
- c) a description of the main lessons learned from the Project;
- d) an assessment of the sustainability of the achieved results by the Project.

5 AUDIT

5.1 If an audit of the Project's financial statements is required pursuant to the Specific Conditions, the audit shall be carried out by an independent chartered/certified or state-authorised public accountant (auditor).

5.2 The Norwegian Ministry of Climate and Environment reserves the right to approve the auditor, and may require that the auditor shall be replaced if the Norwegian Ministry of Climate and Environment finds that the auditor has not performed satisfactorily or if there is any doubt as to the auditor's independence or professional standards.

5.3 The auditor shall form an opinion on whether the Project's financial statements fairly reflect the financial position of the Project and whether they are prepared, in all material respects, in accordance with the applicable financial reporting framework, namely:

- a) the accounting principles followed by the Grant Recipient and;
- b) the requirements of article 3 clause 2 of the General Conditions.

5.4 The auditor shall report in accordance with the applicable audit standard, as agreed in the Specific Conditions.

5.5 The audit report shall include:

- a) the Project name and agreement number;
- b) identification of the Project's total expenses and total income;
- c) the subject of the audit;

- d) the financial reporting framework applied;
 - e) the auditing standards applied;
 - f) a statement that the auditor has obtained reasonable assurance about whether the financial statements as a whole are free from material misstatement;
 - g) the auditor's opinion.
- 5.6 In addition to the Project's audit report, the auditor shall submit a management letter (matters for governance attention), which shall contain any findings made during the audit of the Project. It shall also list any measures that have been taken as a result of previous audits and whether such measures have been adequate to deal with reported shortcomings.
- 5.7 If any findings have been reported in the Project's management letter, the Grant Recipient shall prepare a response including an action plan to be submitted to the Norwegian Ministry of Climate and Environment together with the management letter.
- 5.8 The costs of the audit of the Project's financial statements shall be included in the Project's budget.
- 5.9 The audit requirements stated in this Agreement are applicable for the total Grant, including any part of the Grant that has been transferred to a cooperating partner.
- 5.10 The auditor of the Project's consolidated financial statement is responsible for the direction, supervision and performance of the audit of any part of the Grant that has been transferred to a cooperating partner. The auditor shall assure itself that those performing the audit for cooperating partners have the appropriate qualifications, that the audit is in compliance with professional standards, and that the audit report is appropriate under the circumstances.
- 5.11 The auditor of the Project's consolidated financial statement shall express an opinion on whether the statement is prepared, in all material respects, in accordance with the requirements of this Agreement. To this end, the auditor shall obtain sufficient appropriate audit evidence regarding the financial statements of the cooperating partner and the consolidation process.

6 CONTROL MEASURES

- 6.1 Representatives of the Norwegian Ministry of Climate and Environment and the Norwegian Auditor General may at all times carry out independent reviews, audits, field visits or evaluations or other control measures related to the Project. The objective of such control measures may be i.a to verify that the Grant has been used in accordance with the Agreement or to evaluate the achievement of results.
- 6.2 The Grant Recipient shall facilitate such control measures by providing all information and documentation necessary to carry out the relevant initiative, as well as ensuring unrestricted access to any premises, records, goods and documents requested.
- 6.3 The representatives of the Norwegian Ministry of Climate and Environment and the Norwegian Auditor General shall also have access to the Grant Recipient's auditor and the auditor's assessments of all information pertaining to the Grant Recipient and the Project. The Grant Recipient shall release the auditor from any confidentiality obligations in order to facilitate such access.

6.4 The rights and obligations of this article 6 shall remain in force for 5 years following expiry or termination of the Agreement.

7 FINANCIAL MANAGEMENT

7.1 The Grant Recipient shall keep accurate accounts of the Project's income and expenditure using an appropriate accounting- and double-entry book-keeping system¹ in accordance with the applicable accounting- and bookkeeping policies in the jurisdiction of the Grant Recipient.

7.2 The accounts shall be kept up to date at least on a monthly basis. Bank reconciliations² and cash reconciliations³ shall be completed at least every month, and shall be documented by the Grant Recipient.

7.3 Accounts and expenditures relating to the Project must be easily identifiable and verifiable, either by using separate accounts for the Project or by ensuring that Project expenditure can be easily identified and traced within the general accounting- and bookkeeping systems. The accounts must provide details of bank interest accrued on the Grant.

7.4 The Grant Recipient shall keep the Project's accounting records for at least 5 years from the time of the Norwegian Ministry of Climate and Environment's approval of the final report for the Project. This shall include i.a. vouchers, receipts, contracts and bank statements.

8 EXCHANGE RATE FLUCTUATIONS

8.1 If the Grant is converted into another currency, the exchange shall be made through a national or commercial bank unless otherwise approved by the Norwegian Ministry of Climate and Environment.

8.2 If exchange rate fluctuations decrease the value of the Grant to such an extent that this will have consequences for the implementation of the Project, the Grant Recipient shall inform the Norwegian Ministry of Climate and Environment as soon as possible.

8.3 If exchange rate fluctuations increase the value of the Grant, the gain shall be treated as disbursed Grant funds and used for Project purposes. Net surplus from conversion into foreign currency shall be subtracted from future disbursements or repaid as unused funds at the end of the Support Period, unless otherwise agreed between the Parties.

9 EQUIPMENT, CONSUMABLES AND INTELLECTUAL PROPERTY RIGHTS

9.1 The right of ownership to equipment, consumables and intellectual property rights procured or developed by use of the Grant shall vest in the Grant Recipient or its cooperating partner, unless otherwise stated in the Application. All matters associated with such equipment, consumables and intellectual property rights are the exclusive responsibility of the Grant Recipient. However,

1 A double-entry bookkeeping system is system of bookkeeping where every entry to an account requires a corresponding and opposite entry to a different account.

2 Bank reconciliation is a process of verifying whether the sum found in the bank statements at the end of the period correspond with transactions recorded in the accounting system. This is usually done in conjunction with closure of the accounting records.

3 Cash reconciliation is a process of verifying whether the cash at hand at the end of the period corresponds with the amount of cash in the beginning of the period and the registrations of withdrawals and deposits in the period. This is usually done in conjunction with closure of the accounting records.

significant use of such equipment, consumables and intellectual property rights for purposes outside the Project shall be subject to the the Norwegian Ministry of Climate and Environment's prior approval, as outlined in Article 12 of the General Conditions.

- 9.2 The Norwegian Ministry of Climate and Environment shall have a non-exclusive and royalty-free license to use all intellectual property rights procured or developed by the use of the Grant. The Norwegian Ministry of Climate and Environment may assign this right to any individual or organisation at its own discretion.
- 9.3 Transfer of ownership of such equipment, consumables or intellectual property rights during the Support Period shall be made at market terms. Ownership may not be transferred to an employee of the Grant Recipient or its cooperating partner, or to anyone related or connected to an employee, if such relation could lead to a conflict of interest as described in article 16 of the General Conditions.
- 9.4 Before a transfer is decided, the Grant Recipient shall assess whether it may have an impact on the Project and, where appropriate, consult with the Norwegian Ministry of Climate and Environment. Any income from a transfer shall accrue to the Project, and shall be reported in the financial statement of the Project.
- 9.5 The Grant Recipient shall prepare a record of transfer of ownership for any equipment, consumables and intellectual property rights. The record shall comprise information about the object of transfer, the original purchase price paid by the Grant Recipient, price offers received, the final sales price and the name of the purchaser. The record shall be submitted to the Norwegian Ministry of Climate and Environment along with the first progress report due after the sale.
- 9.6 If the activities of the Project do not continue after the end of the Support Period or after termination of the Agreement, the Grant Recipient shall inform the Norwegian Ministry of Climate and Environment about the remaining equipment and goods that have been purchased by use of the Grant. The Norwegian Ministry of Climate and Environment may require that such assets be sold. Such sale shall be completed in accordance with the procedures described above. Income from the sale shall be repaid to the Norwegian Ministry of Climate and Environment unless otherwise agreed by the Parties.

10 REAL PROPERTY

- 10.1 The Grant may not be used to purchase or construct real property (land or buildings) unless explicitly approved by the Norwegian Ministry of Climate and Environment.
- 10.2 If the Norwegian Ministry of Climate and Environment has approved a purchase or construction of real property, the Grant Recipient and the Norwegian Ministry of Climate and Environment shall agree on the details concerning the ownership and the status of the real property after the end of the Support Period and/or the end of the Project. The agreement may be formalised in the Specific Conditions or in a separate agreement document.
- 10.3 The Norwegian Ministry of Climate and Environment may in such an agreement require i.a. that the real property shall be sold after the end of the Support Period and that the proceeds from the sale shall be repaid to the Norwegian Ministry of Climate and Environment. The Norwegian Ministry of Climate and Environment may also reserve the right to establish security interests in any real property purchased by use of the Grant.

11 TRANSFER OF THE GRANT TO A COOPERATING PARTNER

- 11.1 Transfer of all or part of the Grant including assets to a cooperating partner shall be documented through a written agreement. The agreement shall specify that the cooperating partner is required to comply with the provisions of this Agreement and to cooperate with the Grant Recipient to ensure that the Grant Recipient is able to fulfil its obligations hereunder.
- 11.2 The agreement between the Grant Recipient and the cooperating partner shall have provisions related to i.a. reporting, audit, procurement and measures to prevent financial irregularities. Furthermore, the agreement shall explicitly state that:
- a) both the Grant Recipient, the Norwegian Ministry of Climate and Environment and the Norwegian Auditor General shall have the same access to undertake the control measures related to the cooperating partner's use of the Grant as described in article 6 of the General Conditions,
 - b) the Grant Recipient shall be entitled to claim repayment of the Grant from the cooperating partner in the same instances and to the same extent that the Norwegian Ministry of Climate and Environment is entitled to claim repayment from the Grant Recipient, and the cooperating partner shall accept that the Norwegian Ministry of Climate and Environment has the right to claim repayment directly from the cooperating partner to the same extent as the Grant Recipient,
 - c) the cooperating partner shall accept the choice of law and settlement of disputes provisions in article 24 of the General Conditions in relation to any disputes arising between the cooperating partner and the Norwegian Ministry of Climate and Environment.
- 11.3 The Grant Recipient shall assure itself that the cooperating partner has the necessary competence and internal procedures to meet the requirements of the Agreement and shall follow-up the cooperating partner's compliance with the Agreement throughout the Support Period.
- 11.4 The Grant may not be transferred to a cooperating partner who has previously been charged or sentenced for any criminal activity unless explicitly approved by the Norwegian Ministry of Climate and Environment.
- 11.5 The Grant Recipient shall remain fully responsible towards the Norwegian Ministry of Climate and Environment for any part of the Grant including assets that has been transferred to a cooperating partner.

12 CHANGES TO THE PROJECT OR THE GRANT RECIPIENT

- 12.1 Any significant deviations from or changes to the Application or approved implementation plans or budgets are subject to the Norwegian Ministry of Climate and Environment's prior, written approval. The same applies to significant changes to, or circumstances materially affecting, the Grant Recipient's organisation.
- 12.2 The following deviations/changes shall always be subject to the Norwegian Ministry of Climate and Environment's prior written approval:
- a) any changes to the Project's sources of income,
 - b) any changes to the results framework or scope of the Project,
 - c) changes to the implementation plan which implies a delay of more than three months of any activity,
 - d) changes to the Project's budget that imply reallocation of more than 10% of a budget line.
- 12.3 The Norwegian Ministry of Climate and Environment may suspend disbursements of the Grant until such changes have been approved.

13 EXTENSION OF THE SUPPORT PERIOD

- 13.1 The Support Period of the Project is set out in the Specific Conditions. The Grant Recipient must, without delay, inform the Norwegian Ministry of Climate and Environment of any circumstances likely to hamper or delay the implementation of the Project.
- 13.2 The Grant Recipient may request an extension of the Support Period if this is necessary to complete all planned activities. The request must state the reasons for the delay and supporting documentation must be enclosed. The Norwegian Ministry of Climate and Environment shall approve or decline the request in writing.

14 TRANSPARENCY

- 14.1 The Grant Recipient shall publish the following in a dedicated and easily accessible place of its internet site:

- a) a copy of this Agreement;
- b) the title and value of any contracts, cooperation agreements and/or other sub-agreements of more than NOK 500 000 (or the equivalent in local currency) which are to be financed by the Grant;
- c) the names and nationalities of the respective agreement parties and, if relevant, any further sub-grantees or contractors in receipt of Project funds;

Any deviations from article 14 shall be agreed by the Parties in writing, i.a. in the Specific Conditions.

- 14.2 Publication shall take place as soon as possible, and at the latest within six months after the contracts, cooperation agreements and/or other sub-agreements were entered into
- 14.3 The Grant Recipient shall make other project documentation, including the Application and all agreed reports, available to anyone upon request. Requests for disclosure may be denied if such disclosure is prohibited by confidentiality obligations and/or if it may be detrimental to the Grant Recipient's legitimate interests.

15 FINANCIAL IRREGULARITIES

- 15.1 The Grant Recipient is required to practise zero tolerance against corruption and other financial irregularities within and related to the Project. The zero tolerance policy applies to all staff members, consultants and other non-staff personnel and to cooperating partners and beneficiaries of the Grant.

- 15.2 Financial irregularities refers to all kinds of:

- a) corruption, including bribery, nepotism and illegal gratuities;
- b) misappropriation of cash, inventory and all other kinds of assets;
- c) financial and non-financial fraudulent statements;
- d) all other use of Project funds which is not in accordance with the implementation plan and budget.

- 15.3 In order to fulfil the zero tolerance requirement, the Grant Recipient shall:

- a) organise its operations and internal control systems in a way that financial irregularities are prevented and detected;
- b) do its utmost to prevent and stop financial irregularities within and related to the Project;

- c) require that all staff involved in, and any consultants, suppliers and contractors financed under the Project refrain from financial irregularities.
- 15.4 The Grant Recipient shall inform the Norwegian Ministry of Climate and Environment immediately of any indication of financial irregularities in or related to the Project. The Grant Recipient shall provide the Norwegian Ministry of Climate and Environment with an account of all the known facts and an assessment of how the matter should be followed up, including whether criminal prosecution or other sanctions are considered appropriate.
- 15.5 The matter will be handled by the Norwegian Ministry of Climate and Environment in accordance with the Norwegian Ministry of Climate and Environment's guidelines for handling suspicion of financial irregularities. The Grant Recipient shall cooperate fully with the Norwegian Ministry of Climate and Environment's investigation and follow-up. If requested by the Norwegian Ministry of Climate and Environment, the Grant Recipient shall initiate prosecution and/or apply other sanctions against persons or entities suspected of financial irregularities.
- 15.6 The Norwegian Ministry of Climate and Environment may claim repayment of all or parts of the Grant in accordance with article 17 of the General Conditions if it finds that financial irregularities have taken place in or related to the Project. The repayment claim may also include any interest, investment income or any other financial gain obtained as a result of the financial irregularity.

16 CONFLICT OF INTEREST

- 16.1 The Grant Recipient shall take all necessary precautions to avoid any conflicts of interest in all matters related to the Project.
- 16.2 Conflict of interest refers to any situation where the impartial and objective exercise of the functions of anyone acting on behalf of the Grant Recipient is, or may be, compromised for reasons involving family, personal life, political or national affinity, economic interest or any other connection or shared interest with another person.
- 16.3 If a conflict of interest occur, the Grant Recipient shall, without delay, take all necessary measures to resolve the conflict, e.g. by replacing the person in question or by obtaining independent verification of the terms of the proposed decision or transaction.
- 16.4 If the conflict of interest cannot be resolved and/or if it relates to a decision or transaction of special significance to the Project, the decision or transaction may not be concluded without the prior, written approval of the Norwegian Ministry of Climate and Environment.

17 BREACH OF THE AGREEMENT

- 17.1 If the Grant Recipient fails to fulfil its obligations under this Agreement and/or if there is suspicion of financial irregularities, the Norwegian Ministry of Climate and Environment may suspend disbursement of all or part of the Grant.
- 17.2 In the event of material breach of the Agreement, the Norwegian Ministry of Climate and Environment may terminate the Agreement with immediate effect, and/or claim repayment of all or parts of the Grant.
- 17.3 Material breach of the Agreement shall include, without limitation, the following situations:
- a) all or part of the Grant has not been used in accordance with the Agreement and/or approved implementation plans and budget,

- b) the Grant Recipient has made false or incomplete statements to obtain the Grant,
- c) the use of the Grant has not been satisfactorily accounted for,
- d) the Grant Recipient has, after having been granted an extended deadline, failed to provide the agreed reports, or has knowingly provided reports that do not reflect reality,
- e) financial irregularities, grave professional misconduct or illegal activity of any form have taken place within the Grant Recipient or its cooperating partners,
- f) the Grant Recipient has failed to inform the Norwegian Ministry of Climate and Environment of indication of financial irregularities within the Project in accordance with article 15 of the General Conditions,
- g) the Grant Recipient has changed legal personality without prior notification to the Norwegian Ministry of Climate and Environment,
- h) the Grant Recipient is bankrupt, being wound up or is having its affairs administered by the courts, or is subject to any analogous or corresponding procedure provided for under national legislation.

17.4 The Grant Recipient shall inform the Norwegian Ministry of Climate and Environment immediately of any circumstances that may indicate or lead to a breach of Agreement, and shall provide the Norwegian Ministry of Climate and Environment with any information or documentation it may reasonably require in order to determine if a breach of the Agreement has occurred.

17.5 The Norwegian Ministry of Climate and Environment may also suspend disbursements or terminate the Agreement with immediate effect if a material breach of another agreement between the Norwegian Ministry of Climate and Environment and the Grant Recipient has been established.

18 TERMINATION OF THE AGREEMENT

18.1 Each of the Parties may terminate the Agreement upon a written notice.

18.2 The Support Period shall end three months after the date of the notice of termination. During these three months, the Grant Recipient may only use the Grant to cover commitments that have been established before the date of the notice of termination.

18.3 If the Project cannot continue without the Grant, the Grant Recipient shall use these three months to discontinue or scale down the Project promptly and in an orderly and financially sound manner. Any funds that remain unused at the end of the Support Period shall be repaid to the Norwegian Ministry of Climate and Environment.

18.4 The Grant Recipient shall submit a final report to the Norwegian Ministry of Climate and Environment within three months of the end of the Support Period. The final report shall meet the requirements set out in article 4 of the General Conditions and shall also include a financial report and audit report covering the period from the previous financial report until the end of the Support Period.

18.5 The Agreement will be considered terminated when the final report has been approved by the Norwegian Ministry of Climate and Environment and any remaining funds have been repaid.

19 WAIVER AND IMMUNITIES

19.1 Nothing in the Agreement or any document related to the Agreement shall imply a waiver, express or implied, by the Norwegian Ministry of Climate and Environment, the Government of Norway or any of its officials of any privileges or immunity enjoyed by them or their acceptance of the

jurisdiction of the courts of any country over disputes arising thereof. This article 19 will not prevent arbitration or court proceedings in the legal venue of the Grant Recipient pursuant to article 24 of the General Conditions.

20 LIABILITY

- 20.1 The Norwegian Ministry of Climate and Environment shall not under any circumstances or for any reason be held liable for damage, injury or loss of income sustained by the Grant Recipient or its staff or property as a direct or indirect consequence of the Project. The Norwegian Ministry of Climate and Environment will not accept any claim for compensation or increases in payment in connection with such damage, injury or loss of income.
- 20.2 The Grant Recipient shall assume sole liability towards third parties, including liability for damage, injury or loss of income of any kind sustained by them as a direct or indirect consequence of the Project. The Grant Recipient shall indemnify the Norwegian Ministry of Climate and Environment against any claim or action from the Grant Recipient's employees or third parties in relation to the Project.

21 ASSIGNMENT

- 21.1 The Agreement and/or the Grant may not be assigned to a third party without the prior written consent of the Norwegian Ministry of Climate and Environment. This shall not, however, prevent transfer of parts of the Grant to a cooperating partner in accordance with article 11 of the General Conditions.

22 RECOGNITION AND PUBLICATION

- 22.1 The Grant Recipient shall consider to acknowledge the Norwegian Ministry of Climate and Environment's support to the Project in all publications and other materials issued in relation to the Project. the Norwegian Ministry of Climate and Environment or NICFI logotype will be provided by the Norwegian Ministry of Climate and Environment upon request. All use of the Norwegian Ministry of Climate and Environment's logotype must be approved by the Norwegian Ministry of Climate and Environment.

23 ENTRY INTO FORCE, DURATION AND AMENDMENT

- 23.1 The Agreement shall enter into force at the date of the last signature and shall remain in force until all obligations arising from it have been fulfilled, or until it is terminated in accordance with the provisions of the General Conditions. Whether the obligations of the Agreement shall be considered fulfilled, will be determined through consultations between the Parties and confirmed by the Norwegian Ministry of Climate and Environment in a completion letter.
- 23.2 The Agreement may be amended. Any such amendment must be agreed upon in writing between the Parties and shall become an integral part of the Agreement.
- 23.3 Termination or expiry of the Agreement shall not release the Parties from any liability arising from any act or omission that has taken place prior to such termination or expiry.

24 CHOICE OF LAW AND SETTLEMENT OF DISPUTES

- 24.1 The Agreement shall be governed and construed in accordance with Norwegian law.
- 24.2 If any dispute arises relating to the implementation or interpretation of the Agreement, the Parties shall seek to reach an amicable solution.
- 24.3 Any dispute arising out of or in connection with the Agreement that cannot be solved amicably, shall exclusively be settled before the Norwegian courts of law with Oslo District Court as legal venue.
- 24.4 The Grant Recipient accepts that the Norwegian Ministry of Climate and Environment can, at its own sole discretion and as an alternative to the legal venue mentioned above, choose to settle the dispute by
- a) the courts in the legal venue of the Grant Recipient, or
 - b) arbitration in accordance with the Arbitration Rules of the Arbitration Institute of the Stockholm Chamber of Commerce. The arbitral tribunal shall be composed of three arbitrators. If the disputed amount is below an amount corresponding to NOK 10 000 000 the arbitral tribunal shall, however, be composed of a sole arbitrator. The seat of arbitration shall be Stockholm, Sweden, and the language to be used in the arbitral proceedings shall be English. The Parties agree that neither the arbitral proceedings nor the award shall be subject to any confidentiality.
- 24.5 The Parties agree that no other courts of law, than as set out in this article 24, shall have jurisdiction over disputes arising out of or in connection with this Agreement.

ANNEX II: PROCUREMENT IN THE CONTEXT OF PROJECTS FINANCED BY THE NORWEGIAN MINISTRY OF CLIMATE AND ENVIRONMENT

1 GENERAL PRINCIPLES

- 1.1 If the implementation of a Project requires procurement of services or goods by the Grant Recipient, the contract must be awarded to the most economically advantageous tender (the tender offering the best price-quality ratio), as evaluated against the award criteria listed in the tender documents.
- 1.2 Contracts must be awarded in accordance with procurement rules and procedures:
 - ensuring sufficient transparency, fair competition and adequate ex-ante publicity;
 - ensuring equal treatment, proportionality and non-discrimination;
 - avoiding conflicts of interests throughout the entire procurement procedure.
- 1.3 Contracts must not be split artificially to circumvent procurement thresholds.
- 1.4 This Part III sets out the minimum procedures to be followed, but does not preclude the Grant Recipient from applying alternative procedures providing an even higher degree of competition.
- 1.5 The Norwegian Ministry of Climate and Environment may carry out ex post checks on the Grant Recipient's compliance with the rules set forth in this Part III. Failure to comply with these rules would render the related expenditure ineligible for the Norwegian Ministry of Climate and Environment funding and may lead to withholding funds or claim for repayment in accordance with Article 17 of the General Conditions / Part II of this Agreement.
- 1.6 The Procurement Provisions of this Part III shall apply mutatis mutandis to any procurements to be carried out by the Grant Recipient's affiliated entity(ies) or cooperation partners.
- 1.7 Any monetary amounts referred to in this Part III are amounts excluding VAT.

2 ELIGIBLE TENDERERS

- 2.1 Participation in tender procedures administered by the Grant Recipient shall be open on equal terms to all natural and legal persons. Tenderers must state their nationality in their tenders by presenting proof of nationality under their national legislation. Tenderers must also provide information on their legal form and ownership structure.

- 2.2 Candidates or tenderers shall not make use of child labour or forced labour and/or practise discrimination and they shall respect the right to freedom of association and the right to organise and engage in collective bargaining, in accordance with the core conventions of the International Labour Organization (ILO).
- 2.3 Candidates or tenderers shall be excluded from participation in a procurement procedure if:
- a) they are bankrupt or being wound up, are having their affairs administered by the courts, have entered into an arrangement with creditors, have suspended business activities, are subject of proceedings concerning those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
 - b) they or persons having powers of representation, decision-making or control over them have been convicted of an offence concerning their professional conduct by a judgment which has the force of res judicata;
 - c) they have been guilty of grave professional misconduct proven by any means which the Grant Recipient 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 country of the Grant Recipient(s) 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 organisation, money laundering or any other illegal activity, where such illegal activity is detrimental to the the Norwegian Ministry of Climate and Environment's financial interests.
- 2.4 Candidates or tenderers must confirm in writing that they are not in one of the situations listed above.
- 2.5 Points 2.3 (a) to (d) do not apply to the purchase of supplies on particularly advantageous terms from either a supplier which is definitively winding up its business activities, or the receivers or liquidators of a bankruptcy, through an arrangement with creditors, or through a similar procedure under national law.
- 2.6 Contracts may not be awarded to candidates or tenderers which, during the procurement procedure:
- a) are subject to a conflict of interests;
 - b) are guilty of misrepresentation in supplying the information required by the Grant Recipient as a condition of participation in the tender procedure or fail to supply this information.

3 COMMON PROCUREMENT RULES

- 3.1 The tender documents must be drafted in accordance with best international practice. If they do not have their own tender documents, Grant Recipients may voluntarily use the models published in the Practical Guide on the EuropeAid website (PRAG). The Norwegian Ministry of Climate and Environment will not publish notices and tender documents issued by the Grant Recipient(s).
- 3.2 The Grant Recipient shall take into account universal design and the potential environmental impact of any planned procurements.
- 3.3 All invitations to submit tenders shall include a clause stating that offers will be rejected if any illegal or corrupt practises have taken place in connection with the award. All contracts concluded under the Project shall contain a clause stating that the Grant Recipient may terminate the contract if it finds that illegal or corrupt practises have taken place in connection with the contract award or the execution of the contract.
- 3.4 The time-limits for receipt of tenders and requests to participate must be sufficient to allow interested parties a reasonable and appropriate period to prepare and submit their tenders.
- 3.5 An evaluation committee must be set up to evaluate applications and/or tenders of a value of NOK 500 000 or more on the basis of the exclusion, selection and award criteria published by the Grant Recipient(s) in advance in the tender documents. This committee must have an odd number of members, at least three, with all the technical and administrative capacities necessary to give an informed opinion on the tenders.
- 3.6 For contracts with a value exceeding NOK 100 000, the Grant Recipient shall compile a written record with documentation of all assessments and decisions during all steps of the procurement process from the planning stage until the signing of the contract. Upon request by the Norwegian Ministry of Climate and Environment, the Grant Recipient will deliver the written record to the Norwegian Ministry of Climate and Environment and grant the Norwegian Ministry of Climate and Environment access to all relevant information and documentation related to its procurement practises and any specific procurements carried out under the Project.

4 SPECIFIC RULES FOR SERVICE CONTRACTS¹

Service contracts from NOK 2 500 000 and above

- 4.1 The contract must be awarded by means of an international restricted tender procedure following publication of a procurement notice.

¹ Definitions of different types of contracts and procedures can be found in Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC.

- 4.2 The procurement notice shall be published in all appropriate media, in particular on the Grant Recipient's web site, in the international press and the national press of the country in which the Project is being carried out, and in any other relevant specialist periodicals. It must state the number of candidates which will be invited to submit tenders within a range of four to eight candidates, and must be sufficient to ensure genuine competition.
- 4.3 All would-be service providers fulfilling the conditions referred to in article 2 above may take part, but only candidates satisfying the published selection criteria and invited in writing by the Grant Recipient may submit a tender.

Service contracts from NOK 500 000 to less than NOK 2 500 000

- 4.4 The contract must be awarded by means of a competitive negotiated procedure with or without publication, in which the Grant Recipient consults at least three suppliers of its choice and negotiates the terms of the contract with one or more of them.

Service contracts of less than NOK 500 000:

- 4.5 The contract may be awarded using procedures established by the Grant Recipient, while respecting the rules and principles laid down in articles 1 to 3 of this Part III.

5 SPECIFIC RULES FOR SUPPLY CONTRACTS²

Supply contracts from NOK 2 500 000 and above

- 5.1 The contract must be awarded by means of an international open tender procedure following publication of a procurement notice.
- 5.2 The procurement notice is to be published in all appropriate media, in particular on the Grant Recipient's web site, in the international press and the national press of the country in which the Project is being carried out, and in any other relevant specialist periodicals.
- 5.3 Any would-be supplier which fulfils the conditions referred to in article 2 may submit a tender.

Supply contracts from NOK 800 000 to less than NOK 2 500 000

² Definitions of different types of contracts and procedures can be found in Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC.

5.4 The contract must be awarded by means of an open tender procedure published locally: the contract notice is published in all appropriate media at least in the country in which the Project is being carried out.

5.5 A local open tender procedure must provide other eligible suppliers with the same opportunities as local firms.

Supply contracts from NOK 500 000 to less than NOK 800 000

5.6 The contract must be awarded by means of a competitive negotiated procedure with or without publication of a contract notice. The Grant Recipient consults at least three suppliers of its choice and negotiates the terms of the contract with one or more of them.

Supply contracts of less than NOK 500 000

5.7 The contract may be awarded using procedures established by the Grant Recipient, while respecting the rules and principles laid down in articles 1 to 3 of this Part III.

6 SPECIFIC RULES FOR PUBLIC WORKS CONTRACTS³

Public works contracts from NOK 40 000 000 and above

6.1 The contract must be awarded by means of an international open tender procedure following publication of a contract notice.

6.2 The procurement notice is to be published in all appropriate media, in particular on the Grant Recipient's web site, in the international press and the national press of the country in which the Project is being carried out, and in any other relevant specialist periodicals.

6.3 Any contractor which fulfils the conditions referred to in article 2 above may submit a tender.

Public works contracts from NOK 2 500 000 to less than NOK 40 000 000

6.4 The contract must be awarded by means of an open tender procedure published locally: the procurement notice is published in all appropriate media at least in the country in which the Project is being carried out.

6.5 A local open tender procedure must provide other eligible contractors with the same opportunities as local firms.

³ Definitions of different types of contracts and procedures can be found in Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC.

Public works contracts from NOK 500 000 to less than NOK 2 500 000

- 6.6 The contract must be awarded by means of a competitive negotiated procedure with or without publication, in which the Grant Recipient consults at least three contractors of its choice and negotiates the terms of the contract with one or more of them.

Public works contracts of less than NOK 500 000

- 6.7 The contract may be awarded using the procedures established by the Grant Recipient(s), while respecting the rules and principles laid down in sections 1 to 3 of this Part III.

7 USE OF NEGOTIATED PROCEDURE

- 7.1 The Grant Recipient may use the negotiated procedure on the basis of a single tender in the following cases:
- a) where, for reasons of extreme urgency brought about by events which the Grant Recipient could not have foreseen, the procedures referred to in articles 2-5 cannot be applied. The circumstances invoked to justify extreme urgency must be documented and must in no way be attributable to the Grant Recipient.
 - b) for the purposes of humanitarian aid and civil protection operations or for crisis management aid. Crisis situations may be invoked only when they have been formally recognised by the Norwegian Ministry of Climate and Environment. the Norwegian Ministry of Climate and Environment will inform the Grant Recipient(s) if a crisis situation has been declared and the period for which the declaration will be in force.
 - c) where the services are entrusted to public-sector bodies or to non-profit institutions or associations and relate to activities of an institutional nature or designed to provide assistance to peoples in the social field;
 - d) where contracts extend on-going activities:
 - (i) not included in the main service contract which have become necessary to perform the contract for unforeseen circumstances, and provided that the additional service cannot be technically and economically separated from the principal contract without serious inconvenience for the Grant Recipient(s) and the aggregate amount of additional services does not exceed 50 % of the value of the principal contract; or
 - (ii) which consist in the repetition of similar services entrusted to the contractor providing services under the initial contract, provided that:

- (a) a contract notice was published for the first service and the possibility of using the negotiated procedure for new services for the project and the estimated cost were clearly indicated in the contract notice published for the first service; and
 - (b) the extension of the contract for a value and duration does not exceed the value and the duration of the initial contract.
- e) for additional deliveries by the original supplier intended either as a partial replacement of normal supplies or installations or as the extension of existing supplies or installations, where a change of supplier would oblige the Grant Recipient to acquire equipment having different technical characteristics which would result in either incompatibility or disproportionate technical difficulties in operation and maintenance;
- f) for additional works not included in the initial contract concluded which have, through unforeseen circumstances, become necessary for carrying out the works and on condition that such works cannot be technically or economically separated from the main contract without serious inconvenience for the Grant Recipient(s) and on the condition that, although separable from the performance of the original contract, are strictly necessary for its completion and where the aggregate value of contracts awarded for additional works does not exceed 50 % of the value of the principal contract.;
- g) where the tender procedure has been unsuccessful, that is where no qualitatively and/or financially worthwhile tender has been received. In such cases, after cancelling the tender procedure, the Grant Recipient may negotiate with one or more tenderers of its choice, from among those that took part in the tender procedure, provided that the initial terms of the tender procedure are not substantially altered;
- h) where the contract concerned follows a contest and must, under the rules applying, be awarded to the winner of the contest or to one of the winners of the contest, in which case, all winners shall be invited to participate in the negotiations;
- i) where, for technical reasons, or for reasons connected with the protection of exclusive rights, the contract can be awarded only to a particular service provider;
- j) where warranted by the nature or particular characteristics of the supplies, for example, where performance of the contract is exclusively reserved for the holders of patents or licences to use patents;
- k) for contracts declared to be secret, or for contracts whose performance must be accompanied by special security measures or when the protection of the essential interests of the Norwegian Ministry of Climate and Environment/ Norway or the Grant Recipient country so requires;
- l) for contracts in respect of supplies quoted and purchased on a commodity market;

- m) for contracts in respect of purchases on particularly advantageous terms, either from a supplier which is definitively winding up its business activities, or from the receivers or liquidators of a bankruptcy, an arrangement with creditors, or a similar procedure under national law;
- n) where a new contract has to be concluded after early termination of an existing contract. Such a decision has to be substantiated by reason of non-performance by the supplier or by reasons for termination similar to the grounds for exclusions as mentioned in section 2.3 above.

8 SPECIAL CASES

- 8.1 Different rules than those specified in this Part III may apply in the following cases, with the exception of section 1 and the rules on nationality provided for in section 2, which always apply.

Co-financing

- 8.2 When the Project is co-financed by several donors and one of the other donors, who acts as the lead donor for the Project, imposes procurement rules on the Grant Recipient(s) that differ from those set out in articles 3 to 7, the Grant Recipient(s) may apply these rules, if they offer guarantees equivalent to internationally accepted standards. Where its pillars have been positively assessed the relevant rules are considered equivalent. If the lead donor's rules do not offer equivalent guarantees, or in specific cases, the the Norwegian Ministry of Climate and Environment and the Grant Recipient will agree on the use of other procurement procedures offering such guarantees. In this case, the rules to be followed are set forth in the Special Conditions.

Public administrations of an EEA country

- 8.3 Where the Grant Recipient(s) or an affiliated entity is a contracting authority and/or a contracting entity within the meaning of the EU Directives applicable to procurement procedures, it must apply the relevant provisions of those texts, in preference to the rules set out in this Part III.

Non-Governmental Organisations (NGOs)

- 8.4 Where the Grant Recipient(s) or an affiliated entity is a NGO, it may apply its own procurement rules if a prior positive assessment of the relevant rules has shown that they offer guarantees equivalent to internationally accepted standards. If the rules do not offer equivalent guarantees, or in specific cases, the the Norwegian Ministry of Climate and Environment and the Grant Recipient will agree on the use of other procurement procedures offering such guarantees. In this case, the rules to be followed are set forth in the Special Conditions.