



Declaration of Undertaking

Name of the Applicant:

Date:

1. We recognize and accept that the Crop Trust only requests services subject to its own terms and conditions which are set out in a Service Agreement we will have to enter into should our Application be successful (see Annex I for details).

2. We hereby certify that neither we nor any of our board members or legal representatives nor any other member of our Joint Venture including Subcontractors under the Contract are in any of the following situations:

2.1) being bankrupt, wound up or ceasing our activities, having our activities administered by courts, having entered into receivership, reorganization or being in any analogous situation;

2.2) convicted within the past five years by a final judgement or a final administrative decision or are subject to on-going financial sanctions by the United Nations, the European Union and/or Germany for involvement in a criminal organization, money laundering, terrorist-related offences, child labor or trafficking in human beings; this criterion of exclusion is also applicable to legal Persons, whose majority of shares are held or factually controlled by natural or legal Persons which themselves are subject to such convictions or sanctions

2.3) having been convicted, within the past five years by final court decision, a final administrative decision or an on-going administrative sanction by a court, the European Union or national authorities in the Partner Country or in Germany for Sanctionable Practice during any Tender Process or the performance of a Contract (in the event of such a conviction, the Applicant shall attach to this Declaration of Undertaking supporting information showing that this conviction is not relevant in the context of the Service Agreement and that adequate compliance measures have been taken in reaction);

2.4) having been subject within the past five years to a contract termination fully settled against us for significant or persistent failure to comply with our contractual obligations during such contract performance, unless this termination was challenged and dispute resolution is still pending or has not confirmed a full settlement against us;

2.5) not having fulfilled applicable fiscal obligations regarding payments of taxes; or

2.6) being subject within the last five years to an exclusion decision of the World Bank or any other multilateral development bank and being listed on the website <http://www.worldbank.org/debarr> or respectively on the relevant list of any other multilateral development bank (in the event of such exclusion, the Applicant shall attach to this Declaration of Undertaking supporting information showing that this exclusion is not relevant in the context of this Contract and that adequate compliance measures have been taken in reaction);

3. We hereby certify that neither we, nor any of the members of our Joint Venture or any of our Subcontractors under the Service Agreement are in any of the following situations of conflict of interest:

3.1) being controlled by or controlling another Applicant or Bidder, or being under common control with another Applicant or Bidder, or receiving from or granting subsidies directly or indirectly to another Applicant or Bidder, having the same legal representative as another Applicant or Bidder, maintaining direct or indirect contacts with another Applicant or Bidder which allows us to have or give access to information contained in the respective Applications or Offers, influencing them or influencing decisions of the Crop Trust;

3.2) being engaged in a Consulting Services activity, which, by its nature, may be in conflict with the assignments that we would carry out for the Crop Trust;

3.3) having prepared or having been associated with a Person who prepared specifications, drawings, calculations and other documentation to be used in the Tender Process of this Service Agreement;

3.4) having been recruited (or being proposed to be recruited) ourselves or any of our affiliates, to carry out works for this Service Agreement;

4. If we are a state-owned entity, and compete in a Tender Process, we certify that we have legal and financial autonomy and that we operate under commercial laws and regulations.

5. We undertake to bring to the attention of the Crop Trust any change in situation with regard to points 2 to 4 above.

6. In the context of the Tender Process and performance of the corresponding Service Agreement:

6.1) neither we nor any of the members of our Joint Venture nor any of our Subcontractors under the Service Agreement have engaged or will engage in any Sanctionable Practice during the Tender Process and in the case of being awarded a Service Agreement will engage in any Sanctionable Practice during the performance of the Service Agreement;

Annex I

Crop Trust Standard Terms and Conditions for Service Agreements

I PAYMENT FOR SERVICES

- The Provider shall render invoices to the Crop Trust Finance Department with the original to follow by post addressed to Finance Department, Global Crop Diversity Trust, Platz der Vereinten Nationen 7, 53113 Bonn, Germany. Invoices shall be payable within 28 days.
- Payments will be subject to satisfactory compliance by the Provider with all the terms and conditions of this Agreement.
- The Crop Trust will process disbursements in the number of instalments as set out in Annex A to this Agreement. Banking instructions of the Provider will be provided with the invoices.
- All payments will be subject to satisfactory completion by the Provider of all the terms and conditions of this Service Agreement, including the receipt of satisfactory reports.
- No compensatory adjustments will be made by the Crop Trust for changes in rates of exchange to any other country.

II ETHICS, ANTI-CORRUPTION AND ANTI-TERRORISM

- The Provider is required to practice zero tolerance for financial irregularities. In order to fulfill this requirement, the Provider shall:
 - carry on its own operations in accordance with sound administrative, technical, financial, economic, environmental and social standards and practices under the supervision of qualified and experienced management assisted by competent staff in adequate numbers; and
 - it shall have systems for internal control, and shall organise its operations in such a manner that financial irregularities, including corruption, theft, embezzlement, fraud, misappropriation of funds, favouritism and nepotism are counteracted and detected.
- The Provider agrees not to discriminate against persons with disabilities in the implementation of the Services and to make every effort to respect the principles of the UN Convention on the Rights of Persons with Disabilities in carrying out the Services, the full text of which can be found at the following website: <http://www.un.org/disabilities/convention/conventionfull.shtml>.
- None of the money received by the Provider in payment for the Services may be used for lobbying activities or to support directly or indirectly political activities.

- The Provider shall use the money it receives from the Crop Trust with due regard to economy and efficiency and uphold the highest standards of integrity in the administration of such money, including the prevention of fraud and corruption.
- The Provider agrees that none of the money it receives from the Crop Trust shall be used in violation of relevant UN conventions, the International Covenant on Civil and Political Rights (in particular Part III) and resolutions of the UN Security Council. In particular the Provider undertakes to use reasonable efforts to ensure that none of the money it receives from the Crop Trust is used or diverted to support or promote drug trafficking, violence, terrorist activity or related training, or money laundering.
- The Provider shall have ethical guidelines and relevant systems in place for preventing, reporting, and dealing with matters of discrimination, including sexual harassment, sexual exploitation, sexual abuse and gender-based violence.
- The Provider shall respect the principles of the UN Declaration on the Elimination of Violence against Women and the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in carrying out the Service.
- The Provider agrees that it has not given, made, offered or received and will not, either directly or indirectly, as an inducement or reward in relation to the execution of the Service Agreement, any kind of offer, gift, payment or benefits, which would or could be construed as illegal or corrupt practice. The Provider shall immediately inform the Crop Trust of any indication of corruption or misuse of resources related to the Services, and undertakes to take rapid legal action to initiate investigations of and prosecution against, in accordance with applicable law, any person suspected of corruption or misuse of resources related to the Services. The Provider further undertakes to assist the Crop Trust fully and promptly in any action the Crop Trust may take in relation to such suspected corruption or misuse of resources.
- The Provider further undertakes to assist the Crop Trust fully and promptly in any action the Crop Trust may take in relation to ensuring compliance of the Provider with this Article.

III CONFLICT OF INTEREST

- The Parties shall take all necessary precautions to avoid a Conflict of Interest in all matters related to the Service.
- If a Conflict of Interest occurs, the affected Party shall, without delay, take all necessary measures to resolve the conflict for example by replacing the person in question or by obtaining independent verification of the terms of the proposed decision or transaction.
- If a Conflict of Interest cannot be resolved and if it relates to a decision or transaction of significance to the Service, the affected Party shall immediately notify the other Party. The Parties shall discuss in order to reach an understanding on the appropriate measures to be taken.

IV WARRANTIES AND INDEMNIFICATION

- The Provider warrants that
 - it has used its reasonable endeavours to engage in Intellectual Property Rights due diligence for the activities carried out under this Agreement;
 - it has or will secure the necessary licences or non-assert covenants to any relevant Intellectual Property Rights that are necessary for the development and delivery of the service deliverables;
 - so far as it is aware there are and have been no claims, challenges, disputes or proceedings, pending or threatened, in relation to the ownership, validity or use of any software; and
 - so far as it is aware exploitation of any software will not infringe the rights of any third party.
- As a condition of this Service Agreement, the Provider agrees to indemnify, defend and hold the Crop Trust harmless from and against any liability, loss or expense or claims for injury or damages suffered or incurred by the Crop Trust arising out of or in connection with:
 - any breach of the warranties contained in this Agreement; or
 - any negligent or wrongful actions or omissions of the Provider or of any of its officers, agents, contractors and employees with respect to the Service Agreement.
- The Provider acknowledges and agrees that any activities by the Crop Trust in association with the Service, including its review of proposals for suggested modifications to the Service or its implementation, will not modify or constitute the basis for any claim of waiver by the Crop Trust of its rights under this Clause.

V INTELLECTUAL PROPERTY

- The Provider hereby transfers the legal and equitable title to any and all Intellectual Property Rights created under this Agreement to the Crop Trust.
- Each Party grants the other Party any necessary Intellectual Property Rights licences to undertake and complete the Services and for any ongoing related work following completion and or termination of this Agreement.
- Any source code created under this Agreement shall be made available to third parties under an Apache License 2 open source license (or license with equivalent terms). The license text shall be applied to the source code. The source code shall not contain any proprietary code or code incompatible with an open source licence.

- All published non-code materials created under this Agreement shall be made available to the public under a Creative Commons license (provided at www.creativecommons.org).

VI COMPLIANCE

- The Crop Trust reserves the right, at its discretion, to terminate this Service Agreement if:
 - the Crop Trust is not reasonably satisfied with the progress achieved by the Provider or with the content of any written report from the Provider regarding the Service; or
 - the Provider fails to comply with any term or condition of this Agreement; or
 - the Crop Trust determines that corrupt or fraudulent practices were engaged in by representatives of the Provider or of a beneficiary of the funds without the Provider taking timely and appropriate action satisfactorily to remedy the situation.

VII Termination of the agreement

- The Crop Trust may terminate this Service Agreement upon giving the Provider three months' written notice.
- The Provider may terminate the Service Agreement only upon acceptance by the Crop Trust and upon giving six months' written notice.
- This Agreement may be terminated at any time upon the written mutual consent of the parties.
- In case of termination of this Service Agreement the Provider shall use its best endeavours to bring the Service to an end in a rapid, orderly and economical manner. The Provider shall not commit the Service financially with funds from the date of the receipt of the notice of termination. Any unspent payments not committed by the date of the receipt of the notice of termination, shall be returned to the Crop Trust without delay.

VIII CONFIDENTIALITY

- Each Party undertakes to the other that (unless the prior written consent of the other Party shall first have been obtained) it shall and shall procure that its officers, employees, advisers and agents shall keep confidential and not by failure to exercise due care or otherwise by any act or omission disclose to any person whatsoever, or use or exploit commercially for its or their own purposes, any of the confidential information of the other Party. For the purposes of this Article, "confidential information" shall include any information which is expressly indicated to be confidential or is imparted by one Party to the other in circumstances importing an obligation of confidence and which either Party may from time to time receive or obtain (orally or in writing or in disk or electronic form) as a result of entering into, or performing its obligations pursuant to, this Agreement or otherwise.

- The consent referred to above shall not be required for disclosure by a Party of any confidential information:
 - to its officers, employees and agents, in each case, as may be contemplated by this Agreement or to the extent required to enable such Party to carry out its obligations under this Article and who shall in each case be made aware by such Party of its obligations under this Article and shall be required by such Party to observe the same restrictions on the use of the relevant information as are contained in this Article;
 - to its professional advisers who are bound to such Party by a duty of confidence that applies to any information disclosed;
 - to the extent required by applicable law or by the regulations of any regulatory or supervisory authority to which such Party is subject or pursuant to any order of court or other competent authority or tribunal;
 - to the extent that the relevant confidential information is in the public domain otherwise than by breach of this Agreement by such Party;
 - which is disclosed to such Party by a third Party who is not in breach of any undertaking or duty as to confidentiality whether express or implied; or
 - that such Party lawfully possessed prior to obtaining it from the other Party.
- If a Party becomes required , in circumstances contemplated above to disclose any information such Party shall give to the other Party such notice as is practical in the circumstances of such disclosure and shall co-operate with the other Party having regard to the other Party's views and take such steps as the other Party may reasonably require in order to enable it to mitigate the effects of or avoid the requirements for, any such disclosure.

IX PUBLIC INFORMATION

- Neither Party shall issue any publication, press release or other public announcement relating to this Agreement or Services, written or oral, unless the form and content of such announcement has been submitted to and agreed in writing by the other Party except as required by law or a court order. Any such publication, press release or announcement must be cleared with the Executive Secretary of the Crop Trust before it is released.

X DISPUTES SETTLEMENT

- This Agreement shall be governed by general principles of law to the exclusion of any single national system of law.
- Any dispute relating to the interpretation or execution of this Agreement shall, unless amicably settled, be subject to conciliation. In the event of failure of the latter, the dispute shall be settled by arbitration. The arbitration shall be conducted in accordance with the modalities to be agreed upon by the Parties, or, in the absence of agreement, with the rules

of arbitration of the International Chamber of Commerce. The parties shall accept the arbitral award as final.

XI NO ASSIGNMENT

- Neither Party may assign (whether absolutely or by way of security and whether in whole or in part), transfer, mortgage, charge, declare itself a trustee for a third Party of, or otherwise dispose in any manner whatsoever of the benefit of this Service Agreement or sub-contract or delegate its performance under this Agreement (each of the above a “dealing”) and any purported dealing in contravention of this article shall be ineffective.

XII PRIVILEGES AND IMMUNITIES

- This Agreement shall not affect any privileges and immunities of either the Crop Trust or the Provider nor shall it be viewed in any way as constituting a waiver of any or all of those privileges and immunities.