

## AGREEMENT

Between

**THE INTERNATIONAL CENTRE FOR RESEARCH IN AGROFORESTRY**

And

**SOUTH EASTERN KENYA UNIVERSITY (SEKU)**

The International Centre for Research in Agroforestry of P.O. Box 30677-00100 Nairobi, Kenya, (hereinafter referred to as "ICRAF" and also known by the brand name "World Agroforestry Centre") wishes to enter into an agreement with South Eastern Kenya University (SEKU) P.O. Box 170-90200, Kitui (hereinafter referred to as "Partner") on the terms and conditions set out below:

### **Prelude:**

**WHEREAS** both ICRAF and Partner warrant and represent that they both have capacity to enter into this agreement and the persons executing this agreement on their behalf are duly authorized and empowered to do so;

**WHEREAS** this Agreement is under the financing of a Project Agreement between ICRAF and Hunan Yunjin (Group) Co., Ltd on "International research and development cooperation program on Africa *Calotropis gigantea*" dated March 2015 (hereinafter referred to as the "Project Agreement");

**WHEREAS** it is intended that this Agreement be subject to the availability of funds from the grant;

**WHEREAS** ICRAF and SEKU are hereinafter referred to as individually as 'Party' and collectively as "Parties"

**NOW THEREFORE** the Parties hereby agree as follows:

### **1. Objectives**

The objective of the agreement is for the Partner to undertake the activities described in the Work Plan annexed to this agreement as Annex 1.

## 2. Timing – Commencement and Completion

This agreement comes into effect on the date the last signature. Both parties agree that project activities began on 1<sup>st</sup> October 2015 pending signing of this agreement. The project will end on 31st October 2016.

Should it become evident to either Party during the implementation of the Project that an extension beyond the expiration date set out in paragraph 1, above, of the present Article, will be necessary to achieve the Objectives of the Project, that Party shall, without delay, inform the other Party, with a view to entering into consultations to agree on a new termination date. Upon agreement on a termination date, the Parties shall conclude an amendment to this effect, in accordance with Article 12, below.

## 3. Project Contacts

### SEKU Contacts:

Principal Investigator

Dr. Jacinta M. Kimiti

SOUTH EASTERN KENYA UNIVERSITY (SEKU)

P.O. Box 170-90200, Kitui

Financial Officer:

Administrative Officer:

### ICRAF Contact:

Principal Investigator:

ICRAF Contact: Dr. Alice Muchugi

World Agroforestry Centre,

United Nations Avenue, Gigiri

P. O. Box 30677-00100

Nairobi

Kenya

Tel: +254 72244272

Email: [a.muchugi@cgiar.org](mailto:a.muchugi@cgiar.org)

Financial Officer: Evelyn Matara-tayari, [e.matara-tayari@cgiar.org](mailto:e.matara-tayari@cgiar.org)

Administrative Officer: Sallyannie Muhoro, [s.muhamoro@cgiar.org](mailto:s.muhamoro@cgiar.org)

## 4. Key Personnel

The Activities as described in the Annex 1: Work Plan shall be under the general guidance and technical direction of Dr. Jacinta Kimiti-SEKU Scientist.

## 5. Budget, Payments Schedule

### 5.1 Disbursement of funds:

The budget is **KSH 405,405** for the period indicated in Article 2 and as detailed in the budget annexed to this agreement as Annex 2.

### 5.2 Disbursement of funds:

- 70% on signing of the agreement and receipt of invoice at ICRAF
- 20% on upon submission and acceptance of financial report signed by the Chief Finance Officer and satisfactory technical report.
- 10% on submission and acceptance of Final technical and financial report.

- Reports to be provided in writing and in English.

The Partner must fill in the Wire Transfer Routing Instructions Form contained in Annex 3. Funds will be disbursed to the account details provided by the Partner under the Annex 3.

## 6. Reporting

6.1. **Financial & Technical Reports** will be submitted by email as per the schedule below:

<b>Technical Reporting Schedule</b>		
<b>Title of report</b>	<b>Reporting period</b>	<b>Due Date</b>
6-months Progress report	1 <sup>st</sup> October 2015 to 31 <sup>st</sup> March 2016	31 <sup>st</sup> March 2016
Final report	1 <sup>st</sup> October 2015 to 30 <sup>th</sup> September 2016	15 <sup>th</sup> October 2016

<b>Financial Reporting Schedule</b>		
<b>Title of report</b>	<b>Reporting period</b>	<b>Due Date</b>
6-months Progress report	1 <sup>st</sup> October 2015 to 31 <sup>st</sup> March 2016	31 <sup>st</sup> March 2016
Final report	1 <sup>st</sup> October 2015 to 30 <sup>th</sup> September 2016	15 <sup>th</sup> October 2016

## 7. Incorporation

This Agreement incorporates the terms of the General Terms and Conditions contained in Annex 4 by reference. If any provision of this Agreement conflicts with a provision in the General Terms and Conditions under Annex 4, the provision of this Agreement shall prevail.

## 8. Communication and Notices

All notices and correspondence between parties shall be sent for the attention of:

### **If to ICRAF:**

Dr. Anthony Simons  
 Director General  
 World Agroforestry Centre (ICRAF)  
 P.O. Box 30677-00100,  
 United Nations Avenue, Gigiri  
 Nairobi, Kenya  
 Tel: +254 20 7224000  
 Fax: +254:20 7224001  
 Email: [t.simons@cgiar.org](mailto:t.simons@cgiar.org)

### **If to SEKU:**

Prof. Geoffrey Muluvi  
 Vice Chancellor  
 P.O. Box -170-90200  
 Kitui

With copies to:  
 Laksiri Abeysekera,

Deputy Director General – Finance and Corporate Services

Email: [l.abeysekera@cgiar.org](mailto:l.abeysekera@cgiar.org)

Anne Munene,

Head, Contracts and Grants Office,

Email: [a.munene@cgiar.org](mailto:a.munene@cgiar.org)

All correspondence shall normally be by first class air-mail or courier or email, other than correspondence dealing with termination, which shall be recorded delivery.

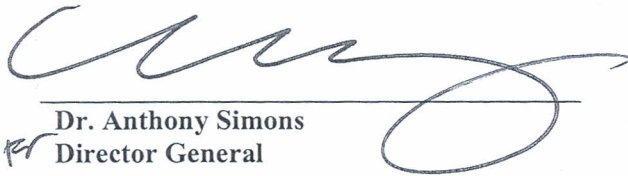
**9. Acceptance**

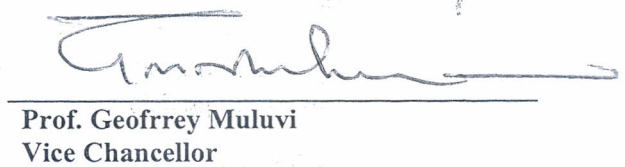
Acceptance by the Partner must be notified by signing, dating and returning three copies of this letter to ICRAF through its authorized representative. Receipt by ICRAF of the acceptance in writing of the terms in this Agreement as well as terms of the General Terms and Conditions contained in Annex 4 will constitute the entire agreement for the provision of the work described in the Work Plan in Annex 1.

**IN WITNESS WHEREOF**, this agreement is signed by the respective officers on the day, month and year indicated below:

**For ICRAF:**

**For Partner**

  
\_\_\_\_\_  
Dr. Anthony Simons  
Director General

  
\_\_\_\_\_  
Prof. Geoffrey Muluvi  
Vice Chancellor

21/12/2015  
\_\_\_\_\_  
(Date)

18.1.2016  
\_\_\_\_\_  
(Date)



## Annex I- Calotropis spp domestication trial-Workplan

### 1. Introduction:

*Calotropis* spp. grows in the wild in dry areas of Africa and not much work has been done on the cultivation of the species. In an effort to bring the species into cultivation, silvicultural information such as planting distance is very crucial. This study will assess various planting distances to identify an optimum spacing to be applied.

2. **Trial site:** SEKU campus in Kitui

3. **Calotropis spp germplasm:** Three provenances from Kenya and one provenance each from Mali and China; will be used for this study. ICRAF will provide the germplasm.

4. **Trial design:**

- **Spacing:** spacing to be tested are 1x1m, 2x2m and 3x3m
- **Treatment combinations:** 9

		Spacing		
		1x1m	2x2m	3x3m
Provenance	K1	1	2	3
	K2	4	5	6
	K3	7	8	9
	China	10	11	12
	Mali	13	14	15

- Total number of seedlings required =  
15 treatment combinations x 12 seedlings x 3 replications = 540 seedlings
- **Seedlings per provenance** = 12 seedlings x 3 spacing x 3 replications = 108
- **Land area required** = At least 1Ha

### 5. Project activities

#### (i) Seedling preparation

- Germination medium
- Potting pots
- Data collection on seedling growth

#### (ii) Land preparation:

- Land clearing/ ploughing
- Lining and pegging
- Digging of holes
- Planting

(iii) **Maintenance cost:** weed control; 2 to 3 times a year

(iv) **Commercial trial:** Establish 0.40 Ha of *Calotropis* spp commercial trial based on results of treatments.

(v) **Data collection:** growth monitoring and yield (3&6 MAP/flowering/fruitlet)

- **Tree growth parameters:** height, diameter, crown size, biomass production
- **Yield parameters:** Number of pods per tree/total number of pods per provenance expressed in terms of hectares/Weight of fibre produced per tree/weight of fibre produced per provenance expressed in terms on hectare

### 6. Expected outputs:

- 6-month progress report
- Final report
- Harvested fibre (to be sent to China-Hunan Yunjin (Group) Co., Ltd for analysis)
- Publication on growth and yield evaluation

## Annex 2 Calotropis evaluation trial-Estimated Budget

Nursery (Seed Germination and Seedling Management)				
Item		Quantity	@	Total (Ksh)
Polytubes		2 Rolls (Black)	2000	4,000
Plastic tank		5000litres	35000	35,000
Germination trays		5	200	1,000
Temporary Greenhouse	Clear polythene paper	2Rolls	3500	7,000
	Posts	20 pcs	100	2,000
	3" by 2" Timber	20ft	30	600
	Wire mesh	2pcs	1500	3000
	Assorted nails	5kgs	150	750
Watering cans		2pcs	600	1,200
Plastic basins		2pcs	200	400
Kirk papers		10kgs	150	1,500
Weighing Scale (spring balance)		1pc	300	600
Labour		2casuals*22days/mon for 2mon	360/=day	31,680
Field Trials (1.4Ha)				
Pitting and staking (2ft by 2ft)		900holes	50	45,000
Sisal string		1Roll	200	200
Backfilling		18casuals	360	6,480
transplanting		30casuals	360	10,800
Plot maintenance and data collection (Labour)		2casuals*22days/mon for 6mon	360/=day	95,040
Printing (data sheets)		1000pcs	2	2,000
Tags		120	50	6,000
Soil and Plant Tissue Sampling and Analysis				
Item		Number	@	total
Plant tissue analysis	Total N	2 samples * 5 provenances * 4 reps (bulked)	200	14,400
	Total P	2 samples * 5 provenances * 4 reps (bulked)	200	14,400
	Dry weight	2 samples * 4 reps (bulked)	200	14,400
Soil samples analysis (SEKU and three natural sites)	Detailed soil analysis	3 samples * 4 reps	1025	3,075
	Bulk density	3 samples * 4 reps	200	4,800
	Soil N	3 samples * 4 reps	300	4,800
	Olsen P (Soil P)	3 samples * 4 reps	500	4,800
Markers		3pcs	80	240
Masking tape		3pcs	80	240
Transport and per diem during seed collection, field monitoring, analysis of samples, workshops		Principal researcher and assistants		90,000
<b>Grand Total</b>				<b>405,405</b>



# INTERNATIONAL CENTRE FOR RESEARCH IN AGROFORESTRY

## WIRE TRANSFER ROUTING INSTRUCTIONS

### INSTRUCTIONS FOR COMPLETING THIS FORM

1. Please type or print clearly.
2. All fields are required unless otherwise noted.
3. Please consult with your bank representative to ensure accuracy of information.
4. Please provide the **correspondent bank** on all international transfers.
5. Return form to the contact person indicated in the agreement.

### PAYEE INFORMATION:

Legal name of Partner:	SOUTH EASTERN KENYA UNIVERSITY
Contact Name:	MDFAT NJOROGE KAMAU
Contact email address:	mkamau@seku.ac.ke
Beneficiary Account Name:	SEKU - RESEARCH ACCOUNT
Beneficiary Bank Name:	NATIONAL BANK
Beneficiary Bank Address:	P.O. BOX 1656 - 90200 KITUI
Beneficiary Bank Swift/ABA/BIC Code:	NBKE KEN-XXXX
Beneficiary Account Number:	01021053302500
Beneficiary IBAN number:	01021053302500
Correspondent Bank Name:	
Correspondent Bank Address:	
Correspondent Swift/ABA/BIC Code:	


### FOR FURTHER CREDIT TO (if applicable):

Beneficiary Account Number:	
Beneficiary IBAN number:	N/A
Beneficiary Account Name:	

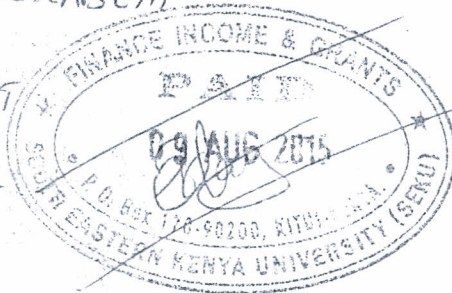
### Authorized by:

Name: WAKIYA ELIZABETH

Title: ACCOUNTANT

Signature: 

Date: 23/9/2015



## ANNEX 4: GENERAL TERMS AND CONDITIONS

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## GENERAL TERMS AND CONDITIONS

### **1. Interpretation**

1.1. In this Agreement, unless the context otherwise requires, reference to:

1.1.1. words importing the singular number only shall include the plural number also and vice versa and words importing the masculine gender include the feminine gender and neuter and vice versa;

1.1.2. clauses shall be construed as references to Clauses of this Agreement;

1.1.3. any statute or any provision of any statute shall be deemed to refer to any statutory modification or re-enactment thereof and to any statutory instrument, order or regulation made there under or under any such re-enactment;

1.1.4. indemnifying any person against any circumstance includes indemnifying and keeping him harmless from all actions, claims and proceedings from time to time made against that person and all loss or damage and all payments, costs and expenses made or incurred by that person as a consequence of or which could not have arisen but for that circumstance;

1.1.5. costs, charges, expenses or remuneration shall be deemed to include, in addition, references to any value added tax or similar tax charged or chargeable in respect thereof; and

1.1.6. any reference to any document means that document as is supplemented, amended or varied from time to time between the Parties thereto in accordance with the terms (if applicable) hereof and thereof.

### **2. Headings**

2.1. Headings to clauses are for convenience only and shall not affect the construction or interpretation of this Agreement.

### **3. Allocation of Risk and Liability**

3.1. The Partner :

3.1.1. accepts all risks and consequences connected with; and

3.1.2. releases ICRAF (including its officers, employees and agents) from all liability arising directly or indirectly from this Agreement.

3.2. Each Party ("Indemnifying Party") shall indemnify, defend and hold harmless the other party ("Indemnified Party") and its parent, partner, operator, subsidiaries and affiliated entities and its and their respective directors, officers, employees and agents from and against any and all liabilities, costs (including attorneys' fees and other costs of defense), fines, penalties, losses, damages, amounts paid in settlement, expenses, claims, actions, hearings, investigations, suits and causes of action of any and every kinds and character, judgments, orders, decrees and rulings to the extent arising out of this Agreement or the fault, negligence, willful misconduct or other wrongful act or omission of or by the indemnifying party, or any of its agents, employees, representatives, contractors, vendors or suppliers of any tier that are providing or performing products or services in connection with the activities contemplated by this Agreement.

3.3. The Parties' right to be indemnified under clause 3.2 is in addition to any other right, power or remedy provided by law.

3.4. Where this clause refers to an officer, employee or agent of a Party, such Party holds the benefit of this clause in trust for that person.

#### **4. Insurance**

4.1. ICRAF declines every form of responsibility for actions, claims, demands, costs and expenses which may arise from or be a consequence of any unlawful or negligent act or omission of the Partner or its employees or agents in carrying out the work described in the Work Plan (Annex 1).

4.2. Therefore when deemed necessary, the Partner should take out appropriate insurance cover for all staff and/or activities financed through this agreement, such as, but not limited to: health, life, accidents, long term disability, workers compensation, travel, public liability, etc. The decision whether or not such insurances are required, rests entirely with the Partner.

#### **5. Taxation**

ICRAF undertakes no liability for taxes, duty or other contribution payable by the Partner on payments made under this Agreement. No statement of earnings will be issued by ICRAF.

#### **6. Intellectual Property**

6.1. All Background Intellectual Property used in connection with this Research Project shall remain the property of the Party introducing the same, and records should be made of Background Intellectual Property introduced. The Party introducing the Background

Intellectual Property hereby grants to the Other Party a license to use and sublicense the Background Intellectual Property for the purposes of the Research Project.

6.2. Any Intellectual Property associated with products jointly generated by ICRAF staff or consultants and the Partner under this Project shall reside jointly with ICRAF and the Partner, not the individual. Due recognition of the contributions of individuals will be made. Each joint owner can use, or disseminate the jointly owned Intellectual Assets on a non-exclusive basis as long as such use or dissemination doesn't restrict the ability of the other joint owners to do the same.

6.3. Where the resulting Intellectual Assets (and associated Intellectual Property Rights) are solely owned by a Party, the Party hereby grants the other a royalty-free, irrevocable, perpetual, worldwide, non-exclusive license to use, sub-license and/or otherwise to disseminate the Intellectual Asset developed under this agreement for non-commercial purposes only.

6.4. ICRAF will take steps to ensure that it is in full and complete compliance with international Intellectual Property Rights treaties and national regulations and the CGIAR Principles on the Management of Intellectual Assets<sup>1</sup> as they relate to our operations and programs.

6.5. ICRAF views its final research outputs as "International Public Goods" and as such shall use the most appropriate mechanisms to make the results freely and widely available to all.

6.6. In case there will be a need for transfer of biological materials and data among the Parties or Third Parties relevant to the Project, the Standard Material Transfer Agreement as contained in the International Treaty on Plant Genetic Resources for Food and Agriculture shall be used.

## 7. Open Access

Parties hereby agree to make any data and/or models jointly generated by ICRAF Staff and Partner as a consequence of this Research Agreement accessible to the public through the Projects' data portals or other established media in compliance with **CGIAR Open Access and**

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<sup>1</sup> [http://www.cgiarfund.org/intellectual\\_assets](http://www.cgiarfund.org/intellectual_assets)



**Data Management Policy<sup>2</sup>** and its implementation guidelines This shall be done as soon as practically possible, but not later than:

- Journal articles: at the time of publication, and no later than 6 months from the date of publication. This includes agreement to publish any scientific papers only in journals that allow articles to be shared as open access.
- Reports and papers: Information products that are not intended for peer-review journals, such as reports, conference papers, policy briefs and working papers, shall be deposited in suitable repositories and made Open Access as soon as possible and in any event within 3 months of their completion.
- Books and book chapters: Making the full digital version of books and book chapters Open Access as soon as possible after publication is encouraged either through self-archiving or other publication arrangements.
- Data: Twelve (12) months of completion of the data collection or appropriate project milestone, or within 6 months of publication of the information products underpinned by that data, whichever is sooner.
- Video, audio, images: Complete final digital versions of video and audio outputs, and image collections must be stored appropriately and made Open Access within 3 months of their completion.
- Computer Software: Where an information product is software developed internally, the associated source code should be deposited in a free/open software archive upon completion of the software development. Access to such information products may be granted subject to appropriate licenses (e.g. Copyleft).
- Metadata: As a minimum, the basic metadata of an information product must be deposited in a suitable repository before or on publication of the information product. When the information product is not deposited in a suitable repository, the deposited metadata must include a link to the information product.

## 8. Confidentiality

8.1. During the course of this Agreement, either party may acquire confidential information or trade secrets of the other ('Confidential Information'). Confidential Information of a party means all information of whatever description, whether in permanently recorded form or not and whether or not belonging to a third party, which is by its nature is confidential or

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<sup>2</sup><http://library.cgiar.org/bitstream/handle/10947/2875/CGIAR%200A%20Policy%20-%20October%202%202013%20-%20Approved%20by%20Consortium%20Board.pdf?sequence=1>



which the party identifies as confidential to itself. It does not include information to the extent that information is: (i) independently created or rightfully known by, or in the possession or control of, the Other Party and not subject to an obligation of confidentiality on the Other Party; (ii) in the public domain (otherwise than as a result of a breach of this Agreement); or (iii) required to be disclosed by law.

8.2. Each party agrees to keep all such Confidential Information in a secure place, and further agrees not to publish, communicate, divulge, use or disclose, directly or indirectly, for its own benefit or for the benefit of another, either during or after performance of this Agreement. This obligation of confidence shall not apply with respect to information that is (a) available to the receiving party from third parties on an unrestricted basis; (b) independently developed by the receiving party; or (c) disclosed by the Other Party to others on an unrestricted basis.

## **9. Severable Provisions**

Each and every provision in this Agreement shall be read (where possible) in relation to each and every individual case instanced by each and every individual word or combination of words contained in that provision as a combination of separable provisions and each and every of such separable provisions shall be read as entirely independent and severable from the other or others. In all cases where a provision of this Agreement is reducible, invalid or unenforceable in terms of any legislation or other legal authority, such provision shall not affect the validity of the remaining portion of this Agreement which shall remain in force and effect as if this Agreement had been granted with no such provision and it is hereby declared the intention of the parties that they would have executed the remaining portion of this Agreement without including therein any such provision.

## **10. Assignment**

10.1. The Partner can assign or delegate any of its duties to any other parties of equivalent skill, experience, resources, and expertise to provide the services set out provided it receives consent for such action in advance and in writing from ICRAF;

10.2. The appointment of any 3rd Party by the Partner shall not affect the obligations of the Partner towards the ICRAF under the terms of this Agreement;

10.3. ICRAF shall have the right to accept or reject the parties proposed assignee within five days of receiving notification from the Partner of the proposed assignation or delegation.

## 11. Amendments

The terms of this agreement can be amended, with the approval of both parties, by means of exchange of letters or email through the authorized officials at each institution. Either party may initiate the exchange of letters or email.

## 12. Termination

12.1. This Agreement may be terminated by either party by giving written notice of intent to terminate the Agreement. Such termination shall not affect the execution and conclusion of specific activities in effect under the terms of this Agreement nor publication and dissemination of results of research in progress. Such notice will be given 90 days in advance of the desired termination date.

12.2. Either party may terminate this Agreement by giving one month's notice in writing to the Other Party if there is a material breach by the Other Party of any of its obligations hereunder which, if it can be remedied remains unremedied on the expiry of five days after receipt by the party in breach of written notice from the other specifying the breach and the action required to remedy same.

12.3. In the event funding from the ICRAF Donor is withdrawn, reduced, or limited in any way after the effective date of this agreement and prior to normal completion, ICRAF may terminate the agreement, reduce funding, or re-negotiate subject to those new funding conditions.

12.4. The Agreement will end automatically if either party enters into bankruptcy, or makes other arrangements for the benefit of its creditors, or becomes otherwise legally incapacitated.

- 12.5. Upon receiving a termination notice, the Partner must take immediate action to cease all project expenditures other than those reasonably necessary to effect the close out of this Agreement.
- 12.6. In the event that the Agreement comes to an end or is terminated before the completion of the services, the Partner shall be entitled to payment by ICRAF for work completed on a pro-rata basis.
- 12.7. Termination of this agreement shall not affect the rights of either party against the other in respect of the period up to the date of termination.
- 12.8. The failure on the part of either party to exercise or enforce any right conferred upon it under this Agreement shall not be deemed to be a waiver of any such right or operate to bar the exercise or enforcement thereof at any time or time thereafter.

### **13. Jurisdiction and Applicable Law**

The applicable law shall be the law of Kenya in so far as it is not in conflict with municipal law of the country of implementation. Should any dispute arise it is the intention of the parties that it is resolved amicably. However, should any matter remain unresolved both parties agree to be subject to dispute resolution mechanism set out in this agreement.

### **14. Dispute Resolution**

14.1. The Parties shall try to settle amicably through direct negotiations, any dispute, controversy or claim arising out of or relating to the present Agreement, including breach and termination of the Agreement.

14.2. Should such negotiations fail to achieve a resolution within Fifteen (15) days, either Party may declare a dispute by written notification to the other in terms spelt out under Clause 8 of the Letter of Agreement, whereupon such dispute shall be referred to arbitration under the following terms:-

14.2.1. Such arbitration shall be resolved in accordance with United Nations Commission on International Trade Law Arbitration Rules;

14.2.2. The tribunal shall consist of one arbitrator to be agreed upon between the Parties failing which each party shall appoint one arbitrator. The two arbitrators shall then appoint a third arbitrator who shall be the Chairman of the Tribunal;



14.2.3. The place and seat of arbitration shall be Nairobi and the language of arbitration shall be English;

14.2.4. The award of the arbitration tribunal shall be final and binding upon the Parties to the extent permitted by law and any Party may apply to a court of competent jurisdiction for enforcement of such award. The award of the arbitration tribunal may take the form of an order to pay an amount or to perform or to prohibit certain activities; and

14.2.5. Notwithstanding the above provisions of this clause, a Party is entitled to seek preliminary injunctive relief or interim or conservatory measures from any court of competent jurisdiction pending the final decision or award of the arbitrator.

14.3. Upon receipt of the notice under Clause 14.2 above, the Partner must cease all actions related to the project and stop all expenditures pending the conclusion of the dispute.

## **15. Child Protection**

15.1. The Partner agrees to:

15.1.1. not permit any of its personnel to work with children if they pose an unacceptable risk to the safety and wellbeing of children;

15.1.2. undertake child-safe recruitment and screening processes for all personnel who will have contact with children, including but not limited to undertaking targeted interview questions, verbal referee checks and criminal record checks (where possible);

15.1.3. immediately notify ICRAF of a child protection incidents.

## **16. Fraud**

16.1. The Partner and their personnel must not engage in any fraudulent activity (meaning dishonestly obtaining a benefit by deception or other means). The Partner is required to act reasonably to prevent and detect fraud and to investigate any detected, suspected or attempted fraud in accordance with their usual processes. The Partner will notify ICRAF within a reasonable time if they become aware of any detected, suspected or attempted fraud.

16.2. The Partner will cooperate fully with ICRAF in relation to any investigation and each Party will keep each other regularly informed of any issues relevant to the investigation.



## **17. Anti-Corruption**

- 17.1. The Partner warrants that they will not make or cause to be made, nor will they seek or agree to receive any offer, gift, payment, consideration or benefit of any kind which could be construed as an illegal or corrupt practice, either directly or indirectly, as an inducement or reward in relation to the execution of this Agreement.
- 17.2. The Partner will not bribe any public officials and will use reasonable endeavours to ensure that all Personnel comply with this clause.
- 17.3. Any breach of this clause will be grounds for immediate termination of this Agreement.

## **18. Anti-Money Laundering and Anti-Terrorism Financing**

- 18.1. The Partner undertakes to comply with all statutory and other requirements relating to Anti Money Laundering and Anti-Terrorism Financing. In particular the Partner undertakes to adhere to the provisions of the Proceeds of Crime and Anti-Money Laundering Act CAP 59B of the Laws of Kenya.
- 18.2. The Partner warrants that none of its personnel (officers, employees and agents) shall enter into any agreement or engage in any transaction or arrangement with anyone in connection with any monies or property which the Partner's personnel (officers, employees and agents) know or ought to reasonably have known is or forms part of illegally obtained funds or proceeds of crime which has the effect of attempting to disguise or conceal the nature, source, location, disposition or ownership of illegally obtained funds or proceeds of crime or in any way attempt to disguise the sources of illegally-obtained funds.
- 18.3. The Partner further represents and warrants that no such attempt of the sort described in 18.2 above has been made prior to the date of this Agreement or will be made in the execution of this Agreement.
- 18.4. The Partner further warrants and agrees that it shall not promote or engage in violence, terrorism, bigotry or the destruction of any state, and that it shall take reasonable measures in the prevailing circumstances to prevent any portion of the Grant from being used to engage in support, or promote violence, terrorist activity or related training or

radicalism. This includes not making sub-grants to any organisation engaging in these activities.

18.5. Notwithstanding any other provision of this Agreement, ICRAF may immediately terminate this Agreement, and any payments required under this Agreement, in the event it should receive information which it determines in good faith and in its sole discretion to be evidence of a breach by the Partner of the undertaking in this article. ICRAF shall not be liable to the Partner for any claims, losses, costs or damages related to its decision to withhold payments under this provision.

## **19. Entire Agreement**

19.1. This Agreement supersedes all prior representations, arrangements and understandings between the Parties relating to the subject matter hereof and except as expressly provided herein is intended by the Parties to be the complete and exclusive statement of the terms and conditions of this Agreement. Any amendment to this Agreement must, to be effective be in writing and signed by the authorized representatives of each Party.

19.2. The Parties may sign a facsimile or photocopy of this Agreement and any such copy shall be deemed to be an original and no objection shall be made to the introduction into evidence of any such copy on the grounds that it is not an original.

## **20. Force Majeure**

20.1. Neither Party shall be liable to the Other Party in respect of any delay in performing or failure to perform any of its obligations hereunder if such delay or failure results from:

20.1.1. Acts or intervention of Government or Government agencies;

20.1.2. Fire, flood or explosion;

20.1.3. Acts of God;

20.1.4. Declared or undeclared war or riots or civil commotion;

20.1.5. Strikes or other industrial disputes; or

20.1.6. Any cause outside reasonable control of either party.

## **21. No Joint Venture or Partnership**

21.1. Nothing in this Agreement shall be construed to create a relationship between the Parties, nor to render any Party liable for the debts or obligations incurred by any 3<sup>rd</sup> Party.

No Party is authorized to make representations on behalf of the others, or to bind the others in any manner whatsoever.