

Service Contract

This contract is concluded in line with the Service Contract No. 3437 / B2017 / ENIE / EEA.56933 signed on July 13 2017 between the Museum national d'Histoire naturelle (Museum) and the European Environment Agency (EEA)

Under the ENI-SEIS East project, the EEA and the Museum are expected to provide scientific and technical support to the six countries of Eastern Europe (Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine) to strengthen their environmental monitoring and information management on the basis of the SEIS principles. As far as biodiversity is concerned, this implies support for the implementation of the Emerald Network under the Berne Convention.

Ustav Krajinnej ekologie Slovenskej akademie vied (ILE-SAS), established in Slovakia, Štefánikova 3, P.O.BOX 254, 814 99 Bratislava, represented by Dr. Zita Izakovičová (hereinafter referred to as "ILE"), of the one part,

and

EUREKO b.v.b.a., established in Belgium, Ringlaan 57, B- 3530 Houthalen, represented by Rita NILIS (hereinafter referred to as "the contractor") of the other part,

HAVE AGREED

the **Special Conditions** and the **General Conditions** below and the following Annexes:

Annex I – Terms of references

which form an integral part of this contract (hereinafter referred to as "the Contract").

The terms set out in the Special Conditions shall take precedence over those in the other parts of the Contract. The terms set out in the General Conditions shall take precedence over those set out in the Annexes.

Subject to the above, the several instruments forming part of the Contract are to be taken as mutually explanatory. Ambiguities or discrepancies within or between such parts shall be explained or rectified by a written instruction issued by the ILE subject to the rights of the Contractor under Article I.7 should he dispute any such instruction.



I – SPECIAL CONDITIONS

ARTICLE I.1 - SUBJECT

- I.1.1.** Activities should be carried out in close interaction with ILE, the Museum, under the control of the director of the European topic centre on biological diversity (ETC/BD), and the Council of Europe secretariat. The Contractor undertakes to carry out under the supervision of the MNHN the work described in Annex 1 :

Support for the implementation of Emerald in six Eastern countries

ARTICLE I.2 - DURATION

- I.2.1.** This contract shall enter into force on 1 August 2017 and shall terminate on completion of the work referred to in Article 1 and at the latest by 30 November 2018.
- I.2.2** The contract duly signed by the Contractor must be returned to ILE within 30 days of its receipt, failing which ILE reserves the right to consider that the Contractor waives the financing.

ARTICLE I.3 – CONTRACT PRICE

- I-3.1** ILE shall cover a maximum amount of **EUR 33 775 - (thirty three thousands seven hundred seventy five Euros)** corresponding to the maximum cost of the contract.
- I-3.2** The Contractor shall organize and bear his professional travel expenses in connection with his services on behalf of ILE (travel, hotel, etc.), costs which shall be reimbursed to him in accordance with the procedures described in Article II-6.

ARTICLE I.4 – INVOICING AND PAYMENT

The financial contribution of ILE will be paid as follows:

- I-4.1** a first installment of **Eur 13 510 - (thirteen thousands five hundred and ten Euros)** will be made within 30 days from the date of receipt of payment by the Museum of the first installment and receipt of an invoice from the Contractor referring to this contract.
- 1-4.2** an interim payment of **Eur 10 132.50 (ten thousands one hundred and thirty two Euros and 50 cents)** will be made at the end of Phase 2, within 30 days from the date of receipt of payment by the Museum of the second installment and receipt of an invoice from the Contractor referring to this contract.
- I-4.3** the payment of the balance which shall not exceed **Eur 10 132.50 (ten thousands one hundred and thirty two Euros and 50 cents)** and shall be made at the end of Phase 3 and within 30 days from the date of receipt of payment by the Museum of the third and final installment and receipt of an invoice from the Contractor referring to this contract accompanied by travels supporting documents.
- 1-4.4** ILE reserves the right to refuse any payment if all the documents mentioned in Annex 1 are not submitted

1-4.5 ILE has a period of 20 days to approve or reject the documents provided for in Annex 1.

ARTICLE I.5 – BANK ACCOUNT

Payments shall be made to the Contractor's bank account denominated in euro¹, identified as follows:

Name of bank: KREDIET BANK (KBC)

Address of branch in full: Rode Kruislaan 30, 13530 Houthalen, BELGIUM

Exact designation of account holder: EUREKO b.v.b.a.

IBAN code: BE73454106311160

BIC/Swift: KRED BEBB

ARTICLE I.6 – GENERAL ADMINISTRATIVE PROVISIONS

Any communication relating to the Contract shall be made in writing and shall bear the Contract number. Ordinary mail shall be deemed to have been received by ILE on the date on which it is registered by the department responsible indicated below. Communications shall be sent to the following addresses:

ILE:

Ustav Krajinnej ekologie Slovenskej akademie vied (ILE-SAS)

Attn : Mr Lubos Halada
Štefánikova 3, P.O.BOX 254
814 99 Bratislava
Slovakia

Contractor:

EUREKO b.v.b.a.
Attn : Mr Marc Roekaerts
Ringlaan 57
B- 3530 Houthalen
Belgium

The work referred to in Article I-4.4 must be submitted in English. The final report must be sent to ILE in duplicate on paper as well as in a digital format approved by ILE.

ARTICLE I.7– APPLICABLE LAW AND SETTLEMENT OF DISPUTES

1.7.1. The Contract shall be governed by the national substantive law of Slovakia.

1.7.2. Any dispute between the parties resulting from the interpretation or application of the Contract, which cannot be settled amicably, shall be brought before the courts of Bratislava.

II – GENERAL CONDITIONS

ARTICLE II.1 – PERFORMANCE OF THE CONTRACT

- II.1.1.** The Contractor shall perform the Contract to the highest professional standards. The Contractor shall have sole responsibility for complying with any legal obligations incumbent on him, notably those resulting from employment, tax and social legislation.
- II.1.2.** The Contractor shall have sole responsibility for taking the necessary steps to obtain any permit or licence required for performance of the Contract under the laws and regulations in force at the place where the tasks assigned to him are to be executed.
- II.1.3.** Without prejudice to Article II.3 any reference made to the Contractor's staff in the Contract shall relate exclusively to individuals involved in the performance of the Contract.
- II.1.4.** The Contractor must ensure that any staff performing the Contract have the professional qualifications and experience required for the execution of the tasks assigned to him.
- II.1.5.** The Contractor shall neither represent the ILE, the Museum or the Agency nor behave in any way that would give such an impression. The Contractor shall inform third parties that he does not belong to the Slovakia, the French or the European public service.
- II.1.6.** The Contractor shall have sole responsibility for the staff that executes the tasks assigned to him.

The Contractor shall make provision for the following employment or service relation with his staff:

- staff executing the tasks assigned to the Contractor may not be given orders direct by ILE, the Museum or the Agency;
 - ILE, the Museum or the Agency may not under any circumstances be considered to be the staff's employer and the said staff shall undertake not to invoke in respect of ILE, the Museum or the Agency any right arising from the contractual relationship between ILE and the Contractor.
- II.1.7.** In the event of disruption resulting from the action of a member of the Contractor's staff working on ILE, the Museum or the Agency premises or in the event of the expertise of a member of the Contractor's staff failing to correspond to the profile required by the Contract, the Contractor shall replace him without delay. ILE shall have the right to request the replacement of any such member of staff, stating its reasons for so doing. Replacement staff must have the necessary qualifications and be capable of performing the Contract under the same contractual conditions. The Contractor shall be responsible for any delay in the execution of the tasks assigned to him resulting from the replacement of staff in accordance with this Article.
- II.1.8.** Should any unforeseen event, action or omission directly or indirectly hamper execution of the tasks, either partially or totally, the Contractor shall immediately and on his own initiative record it and report it to ILE. The report shall include a description of the problem and an indication of the date on which it started and of the remedial action taken by the Contractor to ensure full compliance with his obligations under the Contract. In such event the Contractor shall give priority to solving the problem rather than determining liability.
- II.1.9.** Should the Contractor fail to perform his obligations under the Contract in accordance with the provisions laid down therein, ILE may - without prejudice to its right to terminate the

Contract - reduce or recover payments in proportion to the scale of the failure. In addition, ILE may impose penalties or liquidated damages provided for in Article II.15.

ARTICLE II.2 – LIABILITY

- II.2.1.** ILE shall not be liable for damage sustained by the Contractor in performance of the Contract except in the event of wilful misconduct or gross negligence on the part of ILE.
- II.2.2.** The Contractor shall be liable for any loss or damage caused by himself in performance of the Contract. ILE shall not be liable for any act or default on the part of the Contractor in performance of the Contract.
- II.2.3.** The Contractor shall provide compensation in the event of any action, claim or proceeding brought against ILE by a third party as a result of damage caused by the Contractor in performance of the Contract.
- II.2.4.** In the event of any action brought by a third party against ILE in connection with performance of the Contract, the Contractor shall assist ILE. Expenditure incurred by the Contractor to this end may be borne by ILE.
- II.2.5.** The Contractor shall take out insurance against risks and damage relating to performance of the Contract if required by the relevant applicable legislation. He shall take out supplementary insurance as reasonably required by standard practice in the industry. A copy of all the relevant insurance contracts shall be sent to ILE should it so request.

ARTICLE II.3 - CONFLICT OF INTERESTS

- II.3.1.** The Contractor shall take all necessary measures to prevent any situation that could compromise the impartial and objective performance of the Contract. Such conflict of interests could arise in particular as a result of economic interest, political or national affinity, family or emotional ties, or any other relevant connection or shared interest. Any conflict of interests which could arise during performance of the Contract must be notified to ILE in writing without delay. In the event of such conflict, the Contractor shall immediately take all necessary steps to resolve it.

ILE reserves the right to verify that such measures are adequate and may require additional measures to be taken, if necessary, within a time limit which it shall set. The Contractor shall ensure that his staff, board and directors are not placed in a situation which could give rise to conflict of interests. Without prejudice to Article II.1 the Contractor shall replace, immediately and without compensation from ILE, any member of his staff exposed to such a situation.

- II.3.2.** The Contractor shall abstain from any contact likely to compromise his independence.
- II.3.3.** The Contractor declares:
- that he has not made and will not make any offer of any type whatsoever from which an advantage can be derived under the Contract,
 - that he has not granted and will not grant, has not sought and will not seek, has not attempted and will not attempt to obtain, and has not accepted and will not accept, any advantage, financial or in kind, to or from any party whatsoever, where such advantage constitutes an illegal practice or involves corruption, either directly or indirectly, inasmuch as it is an incentive or reward relating to performance of the Contract.

- II.3.4.** The Contractor shall pass on all the relevant obligations in writing to his staff, board, and directors as well as to third parties involved in performance of the Contract. A copy of the instructions given and the undertakings made in this respect shall be sent to ILE should it so request.

ARTICLE II.4 – GENERAL PROVISIONS CONCERNING PAYMENTS

- II.4.1.** Payments shall be deemed to have been made on the date on which ILE's account is debited.
- II.4.2.** The payment periods referred to in Article I.4 may be suspended by ILE at any time if it informs the Contractor that his payment request is not admissible, either because the amount is not due or because the necessary supporting documents have not been properly produced. In case of doubt on the eligibility of the expenditure indicated in the payment request, ILE may suspend the time limit for payment for the purpose of further verification, including an on-the-spot check, in order to ascertain, prior to payment, that the expenditure is eligible.

ILE shall notify the Contractor accordingly by registered letter with acknowledgment of receipt or equivalent. Suspension shall take effect from the date of dispatch of the letter. The remainder of the period referred to in Article I.4 shall begin to run again once the suspension has been lifted.

- II.4.3.** In the event of late payment the Contractor may claim interest within two months of receiving the payment. Interest shall be calculated at the rate applied by the European Central Bank to its most recent main refinancing operations ("*the reference rate*") plus seven percentage points ("*the margin*"). The reference rate in force on the first day of the month in which the payment is due shall apply. Such interest rate is published in the C series of the Official Journal of the European Union. Interest shall be payable for the period elapsing from the calendar day following expiry of the time limit for payment up to the day of payment. Suspension of payment by ILE may not be deemed to constitute late payment.

ARTICLE II.5 – RECOVERY

- II.5.1.** If total payments made exceed the amount actually due under the Contract or if recovery is justified in accordance with the terms of the Contract, the Contractor shall reimburse the appropriate amount in euro on receipt of the debit note, in the manner and within the time limits set by ILE.
- II.5.2.** In the event of failure to pay by the deadline specified in the request for reimbursement, the sum due shall bear interest at the rate indicated in Article II.4. Interest shall be payable from the calendar day following the due date up to the calendar day on which the debt is repaid in full.
- II.5.3.** ILE may, after informing the Contractor, recover amounts established as certain, of a fixed amount and due by offsetting, in cases where the Contractor also has a claim on ILE that is certain, of a fixed amount and due.

ARTICLE II.6 - REIMBURSEMENTS

- II.6.1.** Where provided by the Special Conditions or by Annex I, ILE shall reimburse the expenses which are directly connected with execution of the tasks on production of supporting documents, including receipts and used tickets.

- II.6.2.** Travel and subsistence expenses shall be reimbursed, where appropriate, on the basis of the shortest itinerary.
- II.6.3.** Travel expenses shall be reimbursed as follows:
- a) travel by air shall be reimbursed up to the maximum cost of an economy class ticket at the time of the reservation; The lowest rate search is the rule;
 - b) travel by boat or rail shall be reimbursed up to the maximum cost of a 2nd class ticket;
 - c) travel by car shall be reimbursed at the rate of one 2nd class rail ticket for the same journey and on the same day;
 - d) travel outside Community territory shall be reimbursed under the general conditions stated above provided it has been foreseen in Annex I or that ILE has given its prior written agreement.
- II.6.4.** Subsistence expenses shall be reimbursed as follows:
- a) Accommodation costs are reimbursed at actual costs on presentation of an invoice;
 - b) for journeys of less than 200 km (return trip) no subsistence allowance shall be payable;
 - c) daily subsistence allowance shall be payable only on receipt of a supporting document proving that the person concerned was present at the place of destination;
- II.6.5.** The cost of shipment of equipment or unaccompanied luggage shall be reimbursed provided the ILE has given prior written authorisation.

ARTICLE II.7 – OWNERSHIP OF THE RESULTS - INTELLECTUAL AND INDUSTRIAL PROPERTY

- II-7-1** Any results or rights thereon, including copyright and other intellectual or industrial property rights, obtained in performance of the Contract, shall be owned solely by ILE, which may use, publish, assign or transfer them as it sees fit, without geographical or other limitation, except where industrial or intellectual property rights exist prior to the Contract being entered into.

ARTICLE II.8 – CONFIDENTIALITY

- II.8.1.** The Contractor undertakes to treat in the strictest confidence and not make use of or divulge to third parties any information or documents which are linked to performance of the Contract. The Contractor shall continue to be bound by this undertaking after completion of the tasks.
- II.8.2.** The Contractor shall obtain from each member of his staff, board and directors an undertaking that they will respect the confidentiality of any information which is linked, directly or indirectly, to execution of the tasks and that they will not divulge to third parties or use for their own benefit or that of any third party any document or information not available publicly, even after completion of the tasks.

ARTICLE II.9 - USE, DISTRIBUTION AND PUBLICATION OF INFORMATION

- II.9.1.** The Contractor shall authorise ILE to process, use, distribute and publish, for whatever purpose, by whatever means and on whatever medium, any data contained in or relating to the Contract, in particular the identity of the Contractor, the subject matter, the duration, the amount paid and the reports.
- II.9.2.** Unless otherwise provided by the Special Conditions, ILE shall not be required to distribute or publish documents or information supplied in performance of the Contract. If it decides not to publish the documents or information supplied, the Contractor may not have them distributed or published elsewhere without prior written authorisation from ILE.
- II.9.3.** Any distribution or publication of information relating to the Contract by the Contractor shall require prior written authorisation from ILE and shall mention the amount paid by ILE. It shall state that the opinions expressed are those of the Contractor only and do not represent ILE's official position.
- II.9.4.** The use of information obtained by the Contractor in the course of the Contract for purposes other than its performance shall be forbidden, unless ILE has specifically given prior written authorisation to the contrary.

ARTICLE II. 10 – TAXATION

- II.10.1.** The Contractor shall have sole responsibility for compliance with the tax laws which apply to him. Failure to comply shall make the relevant invoices invalid.
- II.10.4.** Invoices presented by the Contractor shall indicate his place of taxation for VAT purposes.

ARTICLE II.11 – FORCE MAJEURE

- II.11.1.** Force majeure shall mean any unforeseeable and exceptional situation or event beyond the control of the contracting parties which prevents either of them from performing any of their obligations under the Contract, was not due to error or negligence on their part or on the part of a subcontractor, and could not have been avoided by the exercise of due diligence. Defects in equipment or material or delays in making it available, labour disputes, strikes or financial problems cannot be invoked as force majeure unless they stem directly from a relevant case of force majeure.
- II.11.2.** Without prejudice to the provisions of Article II.1.8, if either contracting party is faced with force majeure, it shall notify the other party without delay by registered letter with acknowledgment of receipt or equivalent, stating the nature, likely duration and foreseeable effects.
- II.11.3.** Neither contracting party shall be held in breach of its contractual obligations if it has been prevented from performing them by force majeure. Where the Contractor is unable to perform his contractual obligations owing to force majeure, he shall have the right to remuneration only for tasks actually executed.
- II.11.4.** The contracting parties shall take the necessary measures to reduce damage to a minimum.

ARTICLE II.12 – SUBCONTRACTING

II.12.1. The Contractor shall not subcontract nor cause the Contract to be performed in fact by third parties.

ARTICLE II.13 – ASSIGNMENT

II.13.1. The Contractor shall not assign the rights and obligations arising from the Contract, in whole or in part, without prior written authorisation from ILE.

II.13.2. In the absence of the authorisation referred to in 1 above, or in the event of failure to observe the terms thereof, assignment by the Contractor shall not be enforceable against and shall have no effect on ILE.

ARTICLE II.14 – TERMINATION BY ILE

II.14.1. ILE may terminate the Contract in the following circumstances:

- (a) where the Contractor is being wound up, is having his affairs administered by the courts, has entered into an arrangement with creditors, has suspended business activities, is the subject of proceedings concerning those matters, or is in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- (b) where the Contractor has been convicted of an offence concerning his professional conduct by a judgment which has the force of *res judicata*;
- (c) where the Contractor has been guilty of grave professional misconduct proven by any means which the contracting authority can justify;
- (d) where the Contractor has 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 he is established or with those of the country applicable to the Contract or those of the country where the Contract is to be performed;
- (e) where ILE seriously suspects the Contractor of fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to ILE's financial interests;
- (f) where the Contractor is in breach of his obligations under Article II.3;
- (g) where the Contractor was guilty of misrepresentation in supplying the information required by ILE as a condition of participation in the Contract procedure or failed to supply this information;
- (h) where a change in the Contractor's legal, financial, technical or organisational situation could, in ILE's opinion, have a significant effect on the performance of the Contract;
- (i) where execution of the tasks has not actually commenced within three months² of the date foreseen, and the new date proposed, if any, is considered unacceptable by the ILE;
- (j) where the Contractor is unable, through his own fault, to obtain any permit or licence required for performance of the Contract;

(k) where the Contractor, after receiving formal notice in writing to comply, specifying the nature of the alleged failure, and after being given the opportunity to remedy the failure within a reasonable period following receipt of the formal notice, remains in serious breach of his contractual obligations.

II.14.2. In case of force majeure, notified in accordance with Article II.11, either contracting party may terminate the Contract, where performance thereof cannot be ensured for a period corresponding to at least to one fifth of the period laid down in Article I.2.

II.14.3. Prior to termination under point e), h) or k), the Contractor shall be given the opportunity to submit his observations.

II.14.4 Termination shall take effect on the date on which a registered letter with acknowledgment of receipt terminating the Contract is received by the Contractor, or on any other date indicated in the letter of termination.

II.14.5. Consequences of termination:

In the event of ILE terminating the Contract in accordance with this Article and without prejudice to any other measures provided for in the Contract, the Contractor shall waive any claim for consequential damages, including any loss of anticipated profits for uncompleted work. On receipt of the letter terminating the Contract, the Contractor shall take all appropriate measures to minimise costs, prevent damage, and cancel or reduce his commitments. He shall draw up the documents required by the Special Conditions for the tasks executed up to the date on which termination takes effect, within a period not exceeding sixty days from that date.

ILE may claim compensation for any damage suffered and recover any sums paid to the Contractor under the Contract.

On termination ILE may engage any other contractor to complete the services. ILE shall be entitled to claim from the Contractor all extra costs incurred in making good and completing the services, without prejudice to any other rights or guarantees it has under the Contract.

ARTICLE II.15 – LIQUIDATED DAMAGES

Should the Contractor fail to perform his obligations under the Contract within the time limits set by the Contract, then, without prejudice to the Contractor's actual or potential liability incurred in relation to the Contract or to ILE's right to terminate the Contract, ILE may decide to impose liquidated damages of 0.2%³ of the amount specified in Article I.3 per calendar day of delay. The Contractor may submit arguments against this decision within thirty days of notification by registered letter with acknowledgement of receipt or equivalent. In the absence of reaction on his part or of written withdrawal by ILE within thirty days of the receipt of such arguments, the decision imposing the liquidated damages shall become enforceable. These liquidated damages shall not be imposed where there is provision for interest for late completion. ILE and the Contractor expressly acknowledge and agree that any sums payable under this Article are in the nature of liquidated damages and not penalties, and represent a reasonable estimate of fair compensation for the losses that may be reasonably anticipated from such failure to perform obligations.

ARTICLE II.16 – CHECKS AND AUDITS

- II.16.1. Pursuant to Article 142 of the Financial Regulation applicable to the general budget of the European Communities, the European Court of Auditors shall be empowered to audit the documents held by the natural or legal persons receiving payments from the budget of the European Communities from signature of the Contract up to five years after payment of the balance.
- II.16.2. ILE or an outside body of its choice shall have the same rights as the European Court of Auditors for the purpose of checks and audits limited to compliance with contractual obligations from signature of the Contract up to five years after payment of the balance.
- II.16.3. In addition, the European Anti Fraud Office may carry out on-the-spot checks and inspections in accordance with Council Regulation (Euratom, EC) No 2185/96 and Parliament and Council Regulation (EC) No 1073/1999 from signature of the Contract up to five years after payment of the balance.

ARTICLE II.17 – AMENDMENTS

Any amendment to the Contract shall be the subject of a written agreement concluded by the contracting parties. An oral agreement shall not be binding on the contracting parties.

ARTICLE II.18 – SUSPENSION OF THE CONTRACT

Without prejudice to ILE's right to terminate the Contract, ILE may at any time and for any reason suspend execution of the tasks under the Contract or any part thereof. Suspension shall take effect on the day the Contractor receives notification by registered letter with acknowledgment of receipt or equivalent, or at a later date where the notification so provides. ILE may at any time following suspension give notice to the Contractor to resume the work suspended. The Contractor shall not be entitled to claim compensation on account of suspension of the Contract or of part thereof.

SIGNATURES

For the Contractor,
Rita NILIS
EUREKO b.v.b.a

For ILE,
Dr. Zita IZAKOVICOVA

signature: 

signature:  

Done at Houtalen, on *August 8, 2017*

Done at Bratislava, on *August 9, 2017*

In duplicate in English.