

**Cooperation Agreement  
(Second Renewal)**

**between**

**The Stichting International Institute for Infrastructural,  
Hydraulic and Environmental Engineering  
(Delft, Kingdom of the Netherlands)**

**and**

**The United Nations Educational,  
Scientific and Cultural Organization**

UNESCO Headquarters  
Paris, 18 December 2013

13

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## Cooperation Agreement (Second Renewal)

between

The Stichting International Institute  
for Infrastructural, Hydraulic and  
Environmental Engineering (Delft,  
Kingdom of the Netherlands)

and

The United Nations Educational,  
Scientific and Cultural  
Organization

represented by a member of its  
Board, Mr Wim Kuijken

represented by its Director-  
General, Ms Irina Bokova

(hereinafter referred to as "the  
Foundation")

(hereinafter referred to as  
"UNESCO")

WHEREAS the UNESCO General Conference decided, at its 31<sup>st</sup> session in October 2001, to create the UNESCO-IHE Institute for Water Education ("the Institute") and took note of its Statutes as set forth in document 31 C/47 of the UNESCO General Conference;

RECALLING the success that the Institute has had in its first ten years of operation as a UNESCO Category I Institute, as well as the commitment of both the UNESCO and the Government of the Netherlands in assisting the Institute to provide services to the Member States of UNESCO;

WHEREAS the Seat Agreement was signed in Paris on 18 March 2003 by the UNESCO Director-General and the then Permanent Delegate of the Netherlands to UNESCO, H.E. Mr Louis Peter van Vliet, and remains in effect as per the time period of the Cooperation Agreement;

WHEREAS the Operational Agreement between UNESCO and the Ministry of Education, Culture and Science of the Netherlands Government and the Cooperation Agreement between UNESCO and the IHE Foundation were signed in Paris on 18 March 2003, to expire on 30 April 2008;

WHEREAS UNESCO and the Government of the Netherlands signed an interim Operational Agreement and UNESCO and the IHE Foundation signed an interim Cooperation Agreement for UNESCO-IHE on 30 April 2008 for the period 1 May to 31 August 2008;

WHEREAS a First Renewal of the Operational Agreement was signed on 14 August 2008 for the period from 1 September 2008 to 31 December 2013;

WHEREAS an extension to the Cooperation Agreement (First Renewal) was signed on 13 and 18 August 2008 for an additional period of five (5) years, expiring on 31 December 2013;

WHEREAS this Cooperation Agreement (First Renewal) foresees in its Article 9.2 the possibility of an additional renewal for fixed-term periods;

WHEREAS UNESCO and the Ministry of Education, Culture and Science of the Netherlands Government will sign a renewal of the Operational Agreement (First Renewal), called Operational Agreement (Second Renewal), valid for three (3) years (1 January 2014 to 31 December 2016), which may be extended for additional periods of up to two years in total, i.e. up to the end of December 2018, if the conditions in Article 5 of the Operational Agreement (Second Renewal) are met;

WHEREAS in light of the above decision, it is foreseen that the renewed Operational Agreement (Second Renewal) will be signed simultaneously with the present Cooperation Agreement (Second Renewal);

WHEREAS the IHE Foundation has agreed to bear the full financial liability for the approved activities of the Institute, including ongoing obligations;

WHEREAS UNESCO agrees to employ its 'good offices' for the benefit of the Institute;

WHEREAS UNESCO and the Foundation wish hereby to establish the terms and conditions of cooperation between the Institute and the Foundation;

The Parties have agreed as follows:

#### **Article 1 - Definitions**

- The "Director-General" shall mean the UNESCO Director-General.
- The "Minister" shall mean the Minister of Education, Culture and Science of The Netherlands.
- The "Chairman" shall refer to the Chairman of the IHE Foundation Board.
- The "General Conference" shall mean the UNESCO General Conference.
- The "Institute" shall mean the UNESCO-IHE Institute for Water Education.
- The "Governing Board" shall mean the Governing Board of the UNESCO-IHE Institute for Water Education.
- The "Director" shall mean the Director of the UNESCO-IHE Institute for Water Education.
- The designation "Rector" refers to the same post/individual.
- The "Foundation" shall refer to the IHE Foundation.
- The "Foundation Board" shall mean the Board of the IHE Foundation.
- The "Foundation resources" means all the Foundation's technical and other physical facilities, as well as services related to the maintenance and functioning thereof, as indicated in Annex A under non-programme expenditures.
- The "Foundation staff" shall mean all the Foundation's staff placed at the disposal of the Institute.
- The "Organization" shall mean the United Nations Educational, Scientific and Cultural Organization
- "Programme Expenditure" shall mean the expenditures of the Institute described in the attached Annex A.

## Article 2 - Legal and Operational Relationship

- 2.1 The Institute, as an integral part of UNESCO, and the Foundation shall remain separate legal and financial entities, with their own rights and obligations relating to their legal status. They shall, however, work as one business entity in support of the goals and mission of the Institute. The Institute also will contribute, in cooperation with the International Hydrological Programme (IHP), to the overall water and sustainable development programme goals of the Organization.
- 2.2 The Institute has the primary responsibility of formulating policies in accordance with the strategic plans and programmes of UNESCO in the field of tertiary water education, capacity-building and research. The Institute is the primary initiator of activities and external contracts under this Cooperation Agreement (Second Renewal). The Foundation is responsible for providing the Institute with the resources for the implementation of the aforementioned contracts with third parties and consequently bears the financial risks and responsibilities attached thereto. Therefore, a standard clause will be inserted into all agreements signed by the Institute as follows: "The UNESCO-IHE Institute for Water Education is responsible for its programme and activities, and the IHE Foundation bears exclusive responsibility for the financial implications and risks of all contracts issued by the Institute."
- 2.3 This Agreement shall not constitute a partnership ("Vennootschap onder firma") under Dutch law, nor shall a relationship of principal and agent be implied thereby.
- 2.4 To enable the Director properly to administer the Institute and direct the implementation of the Institute's programme and budget as approved by the Governing Board of the Institute, the Parties agree that the Director shall manage and direct the Foundation Staff and the Foundation Resources required for the proper implementation of the Institute's programme and budget as referred to in Article 3 below, by giving binding advice where necessary to the Foundation's Board, which shall formally and legally have the responsibility for all decisions regarding the Foundation staff and the Foundation resources.
- 2.5 In accordance with the provisions of Article 2.4 above, the Head of Finance of the IHE Foundation also shall be subject to the authority of the Director and, shall have financial accountability to the Director. The financial reporting is subject to Dutch GAAP accounting principles for the Foundation's financial statements. Where UNESCO deems this necessary, the Organization will adjust the financial statements of the Institute to IPSAS principles for consolidation into the UNESCO financial statements.
- 2.6 The Foundation Board may refuse to act in accordance with the binding advice of the Director referred to in Article 2.4 above only if, in the Foundation Board's reasonable opinion, the binding advice (i) is not in accordance with the Institute's programme and budget, in which case the Director may appeal to the Governing Board of the Institute; (ii) is in conflict with Dutch law; or, (iii) implies a level of financial risk for the Foundation considered to be unacceptable or that it could jeopardize the future of the Institute. Each time a decision is made with respect to Foundation staff and Foundation resources, a resolution approving such a decision shall be considered to have been taken by the Foundation's Board.

### **Article 3 - Programme and Budget Modalities**

- 3.1. In accordance with the terms of its Statutes and within the framework of UNESCO's programme of work as approved by the General Conference, the Institute shall adopt its own annual programme and budget which shall be approved by the Governing Board of the Institute. However, with a view to efficient planning prior to submitting to the Institute's Board the draft programme and budget, the Director shall submit them to the Foundation's Board for comments. In case of a serious divergence of views between the Foundation Board and the Governing Board on the draft programme and budget, the Foundation Board may appeal to the good offices of the Director-General.
- 3.2 The Institute's programme and budget shall comprise: in-kind contributions from the Foundation, such as (i) staff and, (ii) technical and other physical facilities, and the non-Programme and Programme Expenditures, plus project income (see Annex A).
- 3.3 In pursuance of the Operational Agreement (Second Renewal) between UNESCO and the Netherlands Government, the Foundation undertakes to pay from the annual grant it receives from the Minister and/or from income it receives from other sources, such as the non-Programme and Programme Expenditure as detailed in the budget approved by the Governing Board. To this end, the Foundation shall be responsible for the payment of all the operating costs of the Institute.
- 3.4 The unspent balance remaining within the Foundation shall be carried forward for use in subsequent budgets and budget years of the Institute, or be added to the reserves of the Foundation. The assets remain the property of the Foundation.
- 3.5 Funds raised by UNESCO in support of the approved programme of the Institute shall be retained by UNESCO and paid to the Institute based on the submission of invoices and supporting documentation for services provided.

### **Article 4 - Staff**

- 4.1 In accordance with the modalities attached hereto as Annex B, which forms an integral part of this Agreement, the Foundation shall put at the disposal of the Institute all Foundation staff required for the proper implementation of the Institute's programme and budget as approved by the Governing Board, which shall mean all Foundation staff. The staff remains employed by the Foundation.
- 4.2 During the period of the Agreement, both Parties agree to discuss the possibility of additional UNESCO staff being included in future budgets of the Foundation, in accordance with the provisions of Article III of the Statutes of the Institute.
- 4.3 UNESCO may appoint at the Institute additional international civil servants to those noted in Article 4.2. above only in the event that such posts can be financed fully (including all costs relating to their placement, such as costs of their work place, administration and facilities) outside the funds provided by the Foundation. The Foundation shall not be liable for any expenses relating to or

deficits caused by the lack of financing for such posts, and these costs and expenses may not be paid from the programme and budget of the Institute nor from the reserve of the Foundation.

- 4.4 Only those persons employed by the Institute whose contract specifies that he or she shall have the status of UNESCO staff member shall be subject to UNESCO's Staff Regulations and Rules.
- 4.5 For the avoidance of conflict of interest among staff, each Party agrees not to hire, without the prior written permission of the other Party, any members of the other Party's staff for a period of eighteen months after their retirement or separation of employment from that Party.

#### **Article 5 - Facilities**

- 5.1 The Foundation shall take all necessary steps to make available to the Institute, at the Foundation's expense, all its technical and other physical facilities required for the proper implementation of the Institute's programme and budget, including but not limited to appropriate premises, equipment, furniture and the obtaining of necessary computer services and software licenses.
- 5.2 The Foundation shall be responsible, at its own expense, for all maintenance, upkeep and repair of its buildings, equipment and other physical facilities necessary for the implementation of the activities of the institute, as well as for maintaining appropriate insurance for them.
- 5.3 The Foundation shall have the right to make commitments and enter into contracts with third parties which are necessary to fulfill its obligations under Article 5.2 of this Agreement, in accordance with the terms of this Agreement.

#### **Article 6 - Oversight**

- 6.1 The accounts of the Institute for the financial period of UNESCO shall be submitted for audit to the external auditor of UNESCO no later than on 31 March following the end of the financial period to which they relate. The external auditor has unlimited access to all accounts and other documentation relating to the activities of the Foundation, as well as to those of the Institute.
- 6.2 The Director-General shall determine the way internal oversight is carried out. The Internal Oversight Service of UNESCO shall have unlimited access to all accounts and other documentation of both the Institute and the Foundation for audit, evaluation or any other purpose.
- 6.3 In the event that the actual or projected results differ in any material respect from the Institute's programme and budget, the Foundation's Board may request the Institute's Board to have the Director implement such measures as required to bring the actual and projected results in line with the Institute's programme and budget. The Foundation may appeal to the good offices of the Director-General in the event that:
  - a. the Institute's Board denies such a request;

- b. the Institute's Board does not adopt a resolution regarding the request without delay; or,
- c. within a reasonable period of time after the request has been received by the Institute's Board, no sufficient measures have been taken in the Foundation Board's reasonable view.

#### **Article 7 - Non-assignability**

Neither Party shall assign, transfer, pledge or make other disposition of this Agreement or any part thereof, or any of their respective rights, claims, or obligations there under except with the prior written consent of the other Party.

#### **Article 8 - Amendments**

This Agreement may be amended by mutual agreement and in writing.

#### **Article 9 - Duration/Termination**

- 9.1 The Cooperation Agreement (Second Renewal) shall enter into force on the first day after the date of signing of this Agreement, provided that the revised Operational Agreement (Second Renewal) has entered into force by that date. Upon its entry into force, this Agreement supersedes the previous Cooperation Agreement (First Renewal) between the Parties. If the Operational Agreement (Second Renewal) terminates for any reason, this Cooperation Agreement shall also terminate, on the same date.
- 9.2 This Agreement is concluded for a period of three years (1 January 2014 - 31 December 2016) and will be extended automatically for additional periods of up to two years in total, i.e. up to the end of December 2018, if the conditions in Article 5 of the Operational Agreement (Second Renewal) are met. This Agreement may be renewed thereafter by mutual consent for further fixed-term periods, unless the Institute is dissolved in accordance with Article XI of its Statutes. It shall be reviewed by the Parties once every two years and, if necessary, amended in accordance with Article 8 above.
- 9.3 This Agreement may be terminated in writing by either Party subject to twelve (12) months prior notice to the other Party, and UNESCO shall be entitled by notice to the Foundation to suspend in whole or in part or to terminate this Agreement on account of the Foundation becoming bankrupt, insolvent, making a general assignment for the benefit of creditors, or going into receivership (or the equivalent thereof under the applicable law) or on account of the Netherlands authorities not having transferred the annual grant as foreseen under the Operational Agreement.
- 9.4 The Foundation shall be liable for all costs involved with the termination of this Agreement, particularly as regards the separation indemnities and related payments due to the Director and other UNESCO staff referred to in Article XIII,

18

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paragraph 2, or the Institute's Statutes, and shall ensure payment thereof by placing the corresponding lump sums in an escrow account payable to UNESCO on first demand following termination in accordance with Article 9.3 above. In view of such liability, the Foundation shall be entitled to all rights and benefits and to any surplus accrued during the term of this Agreement, including any interest accrued on the lump sum referred to in the preceding sentence.

9.5 At the time of termination of this Agreement, UNESCO-IHE shall no longer have any legal existence, and the contracts of UNESCO staff at UNESCO-IHE also shall be deemed to have been terminated at that time. The Foundation shall promptly remove the name of UNESCO from building signs and other uses of UNESCO's name, acronym and emblem that may be found on the Foundation's immovable and movable properties. UNESCO and the Foundation duly shall inform relevant third parties of the cessation of the existence of UNESCO-IHE. Any settlement of accounts between the Parties that may be necessary shall be effected within ninety days of the termination of this Agreement.

#### **Article 10 - Language**

This Agreement shall be executed by the Parties in two original copies in English.

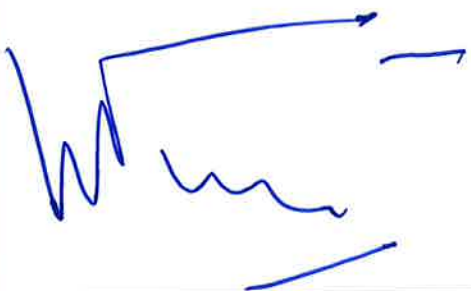
#### **Article 11 - Dispute Resolution**

Any dispute, controversy or claim arising out of or relating to the interpretation, application or performance of this Agreement, including its existence, validity or termination, shall be settled by final and binding arbitration in accordance with the Permanent Court of Arbitration Optional Rules for Arbitration involving International Organizations and Private Parties, as in effect on the date of this Agreement. The number of arbitrators shall be one. The language to be used in the arbitral proceedings shall be English.

Done in two original copies, in the English language.

For the Board of the Foundation:

For the United Nations Educational,  
Scientific and Cultural Organization  
(UNESCO):



Mr Wim Kuijken  
Member of the Board of the IHE  
Foundation



Ms Irina Bokova  
Director-General



## ANNEX A to the Cooperation Agreement

**The Programme Expenditure** shall mean all expenditures directly to be made by the Institute for programme execution, **including but not limited to**:

Statutory expenditures: a) salaries and emoluments relating to the Director and other UNESCO staff referred to in article XIII paragraph 2 of the Institute's statutes, b) the costs associated with the proper functioning of the Institute's Board, and c) the costs of the external auditor of the Institute

Guest Faculty recruited for occasional training programmes

International and local consultancy services and running costs (programme-related)

Procurement of goods (programme-related)

Travel and related in-country expenses ("subsistence expenses")

Monthly allowances, insurance premiums and travel costs of course participants

**The Programme Expenditure** shall be limited to all expenditures directly to be made by the Institute for programme execution, and shall therefore **exclude** non-programme expenditure, **among others**:

Salaries and Benefits of Permanent Foundation Staff

Salaries and Benefits of Temporary Foundation Staff

Personnel Management expenses associated with Staff development, Staff recruitment, Implementation of Labour legislation, Temporary Workers, Staff Insurance, etc..

Honoraria, travel and subsistence of Guest Faculty recruited for the regular education and training programmes

Consultancy services (non-programme)

Copying services

Catering services

Cleaning services

Security services

Utility services

Telecom services

Transport services

ICT services

Local Taxes

Cost of Acquisition and Representation

Insurances for Buildings and Installations

Leases and rentals for Office Buildings and Installations

Rentals and services for Student Hostels

Reconstruction and Maintenance of Buildings and Installations

Furniture

Office, Education and Laboratory Equipment

Office and Student computers and associated equipment

Computer software, related licenses and maintenance contracts

Office consumables

Library Books and Subscriptions

Any expenditures not included in the above lists shall be assigned to one of the above two categories of expenditures during the preparation of the Workplan and Budget, following consultation thereon between the Institute and the Foundation.

## **ANNEX B to the Cooperation Agreement**

### **Modalities relating to Employees placed at the disposal of the Institute**

#### **Article 1. Employees to be placed at the disposal of the Institute.**

- 1.1 The Foundation shall place at the disposal of the Institute on a non-reimbursable basis, the services of such members of the Foundation's staff (hereinafter jointly the "*Employees*" and individually the "*Employee*") as required for the proper implementation of the Institute's programme of activities.
- 1.2 The Employees shall each sign the undertaking attached as an Appendix to the present modalities and shall each perform the duties relating to their function, as mentioned in that undertaking.
- 1.3 Without prejudice to the provisions of the Seat agreement, the Institute shall respect the legal and employment relationship between the Foundation and the Employees as well as decisions affecting that relationship and shall respect the outcome of any decision of a Dutch court under the Works Council Act. The Director shall participate in the consultations between the Foundation's Board and the Foundation's Work Council carried out in accordance with the Dutch Works Council Act, without prejudice to the Institute's statutes.

#### **Article 2. Remuneration of the Employees and expenses in connection with their assignment to the Institute.**

- 2.1 The Foundation shall pay the Employee his/her salary, allowances, benefits and all expenses relating to his/her assignment to the Institute, particularly as concerns taxes, medical insurance coverage, other benefits to which the Employee is entitled, travel expenses and other related expenses incurred in travel to and from the assignment and the designated home place during or at the end of his/her assignment, in accordance with the applicable regulation(s) of the Foundation
- 2.2 UNESCO shall not be liable for any expenses related to these Employees.
- 2.3 The Foundation shall be responsible for any claim brought by third parties against UNESCO for damages as a result of an act or omission by the Employee during the performance of his/her duties on behalf of UNESCO, and shall assume responsibility for any financial consequences connected therewith. This obligation to assume responsibility shall not apply to the extent that the damages and financial consequences connected therewith result from the gross negligence or wilful misconduct of the Director.

#### **Article 3. Conditions relating to the Employee's appointment**

- 3.1 The Employee, not having the same status as a UNESCO staff member, shall not enjoy all the rights granted by UNESCO exclusively to members of its staff. In particular, he/she shall not be affiliated to the United Nations Joint Staff Pension Fund or to the UNESCO Medical Benefits Fund, nor shall he/she be covered by the UNESCO Staff Compensation Plan.
- 3.2 The Employees shall be required to observe the statutes of the Institute and all instructions and directives issued by the Director and relevant to the performance of their duties.
- 3.3 In the performance of his/her official duties on behalf of UNESCO, the Employee shall be subject to the authority of the Director-General of UNESCO, or on his behalf, the Director and, shall be accountable to the Director-General or to the Director.

- 3.4 The Employee may not supervise UNESCO staff members in the exercise of their official duties or be involved in decisions affecting the status, rights and entitlements of such staff members. Exceptionally, however, an Employee having managerial responsibilities may supervise UNESCO staff members in accordance with the Director's instructions.
- 3.5 In the performance of his/her official duties on behalf of UNESCO, the Employee shall carry out his/her work with the interests of UNESCO only in view, at all times, and shall neither seek, nor accept instructions from any government or from an authority external to UNESCO.
- 3.6 The Employee shall conduct himself/herself at all times in a manner befitting his/her relationship with UNESCO as international organization. He/she shall not engage in any form of activity incompatible with the performance of his/her work for UNESCO. He/she shall avoid any action and in particular any kind of public pronouncement that may adversely reflect on the image of UNESCO. While he/she is not expected to give up his/her national sentiments, or his/her political and religious convictions, he/she shall at all times bear in mind the reserve and tact incumbent upon him/her by reason of UNESCO's status as an intergovernmental organization.
- 3.7 All rights, including ownership rights, copyright and patents, in any work produced by the Employee by virtue of his/her contract, shall be vested in the Foundation, which alone shall hold all rights of use. For the duration of this Agreement, the usufruct of these rights shall be vested in the Institute and any benefits derived from them shall be used to cover expenses relating to the Institute's programme and budget.

#### **Article 4. Accountability**

- 4.1 In case of serious breach of the duties and obligations that, in Director's reasonable view, would justify termination of the services of the Employee to the Institute, the Director shall have the right in accordance with Article 2.3 of the Agreement to give binding advise to the Foundation's Board to terminate the employment agreement of the Employee.
- 4.2 The Foundation shall remain the employer of all the Employees and shall continue to assume all rights and obligations of an employer under the laws of the Netherlands. Although the Employees placed at the disposal of Institute will continue to be paid by the Foundation as the releasing entity and shall be subject to the rules of the Foundation, including their right for advancement, promotion, remuneration, allowances, retirement, compensation, and other rights and obligations, all claims relating to those matters shall be dealt with by the Director in accordance the statutes of the Institute as well as Article 2.3 of the Agreement.

#### **Article 5. Settlement of disputes**

- 5.1 Any controversy or dispute between the Institute and the Foundation concerning the execution or interpretation of the present modalities relating to the Employees shall be settled by negotiation between parties. If it is not amicably settled, the procedure provided in Article 11 of the Agreement shall apply.
- 5.2 The Parties undertake to engage in regular consultation with regard to all staff related issues with a view to resolving any eventual problems arising from the implementation of the present modalities.

APPENDIX TO THE MODALITIES

UNDERTAKING

I, the undersigned, as a member of the Foundation staff, made available to the UNESCO-IHE Institute for Water Education (the "*Institute*") pursuant to the Cooperation Agreement concluded between the United Nations Educational, Scientific and Cultural Organisation ("*UNESCO*") and the Foundation, hereby undertake to abide by the following :

- a) I acknowledge having been informed that I shall not have the status of a UNESCO staff member, and that I shall not enjoy the rights granted by the latter to its staff. I understand that, as employee of the Foundation, I shall not be a member of the United Nations Joint Staff Pension Fund or the UNESCO Medical Benefits Fund, nor I shall be covered by the UNESCO Staff Compensation Plan.
- b) I further acknowledge having been informed that the Foundation shall be responsible for the provision of adequate social security coverage, particularly with regard to retirement, health and medical problems, occurring during the entire time of my assignment to the Institute, in accordance with the applicable legislation and regulation and with the applicable regulation(s) of the Foundation.
- c) I understand that I will be considered as an Employee placed at the disposal of the Institute to perform such duties as specified in the Institute's programme and budget.
- d) I further understand that, while performing my duties at the Institute, I shall:
  - be subject to the authority of the Director-General or, on his behalf, the Director of the Institute or any person acting on his or her behalf;
  - exercise the utmost discretion in regard to all matters of official business;
  - not accept donation or remuneration from any source other than the Foundation, except upon explicit permission from the Director General or, on his behalf, the Director of the Institute;
  - comply with Institute's statutes and all reasonable instructions and directives issued by the Director and relevant to the performance of my duties;
  - have the function of [*function to be inserted*] and perform all duties relating to such function as described in the attached post description (i.e. competency profile in use by the IHE Foundation).

**Name of the Employee in block letters :**

Date

\_\_\_\_\_  
Signature