

COMMISSION OF THE EUROPEAN COMMUNITIES
RESEARCH DIRECTORATE-GENERAL

Integrating and strengthening the ERA

Specific Targeted Research Project

ECOManage

Integrated Ecological Coastal Zone Management System

INCO

Contract Number 003715

CONTRACT No 003715 (INCO)

Specific Targeted Research Project

The **European Community** (the "*Community*"), represented by the **Commission of the European Communities** (the "*Commission*"), itself represented for the signature of this *contract* by Achilleas MITSOS, Director General for Research Directorate-General or his duly authorised representative,

of the **one part**,

and Instituto Superior Técnico, established in Av. Rovisco Pais, nº 1, Lisboa, 1049-001, Portugal, represented by Carlos Matos Ferreira, President of IST, or his authorised representative the *contractor* acting as *coordinator* of the *consortium*, (the "*coordinator*") and the other *contractors* identified in Article 1.2 below,

of the **other part**

HAVE AGREED to the following terms and conditions established in this contract and its annexes (the "*contract*").

Article 1 - Scope

1. The *Community* agrees to grant a financial contribution for the implementation of a *project* called *Integrated Ecological Coastal Zone Management System (ECOManage)* within the framework of the specific research and technological development programme "Integrating and strengthening the ERA" (the "*specific programme*").

2. The *consortium* is composed of the *contractor* acting as *coordinator* and the following legal entities, who shall accede to the *contract* in accordance with the procedure referred to in Article 2, as *contractors* assuming the rights and obligations established by the *contract* with effect from the date on which it enters into force:

- **HIDROMOD, Modelação em Engenharia, Lda.**, established in TAGUSPARK, Núcleo Central, 349, Porto Salvo, 2780-920, Portugal represented by José Chambel-Leitão, Gerente (Manager), and/or Adélio Silva, Gerente, or her/his/their authorised representative ("*contractor*")
- **Noctiluca Marien-wetenschappelijk adviesbureau**, established in v.Polanenpark 212, Wassenaar, 2241RX, Netherlands represented by Johan Wijnand Baretta, Principal Scientist, or his authorised representative ("*contractor*")
- **Laboratório Nacional de Engenharia Civil**, established in Avenida do Brasil 101, LISBOA, P-1700-066, Portugal represented by Francisco Nunes Correia, President, and/or Carlos Matias Ramos, Vice-President, or her/his/their authorised representative ("*contractor*")
- **UNIVERSITY OF TRIESTE**, established in PIAZZALE EUROPA 1, TRIESTE, 34127, Italy represented by ENRICO FEOLI, Director of Department, or his authorised representative ("*contractor*")
- **Instituto Oceanográfico da Universidade de São Paulo**, established in Praça do Oceanográfico, 191 Cidade Universitária Butantã, São Paulo, 05508-900, Brazil represented by Belmiro Mendes de Castro Filho, Director, or his authorised representative ("*contractor*")
- **INSTITUTO SUPERIOR DE EDUCAÇÃO SANTA CECÍLIA**, established in Rua Oswaldo Cruz, nº 266, Santos - SP, 11 045907, Brazil represented by Sílvia Angela Teixeira Penteado, Rector, and/or Lúcia Maria Teixeira Furlani, President, or her/his/their authorised representative ("*contractor*")

- **Instituto Argentino de Oceanografía**, established in Complejo CRIBABB, Florida 4000, Edificio E-1, Bahía Blanca, C.C. 804, 8000, Argentina represented by María Cintia Piccolo, Director of IADO, and/or Gerardo Miguel Eduardo Perillo, Sub-Director of IADO, or her/his/their authorised representative ("*contractor*")
- **Universidad de Chile**, established in Alameda Bernardo O'Higgins 1058, Santiago, Chile represented by Luis Riveros, Principal, and/or Raúl Morales, Dean, or her/his/their authorised representative ("*contractor*")
- **Centro de Ecología Aplicada Ltda.**, established in Av. Suecia 3304, Ñuñoa, Santiago, 777 0279, Chile represented by Manuel Antonio Contreras, Director Ejecutivo, or his authorised representative ("*contractor*")

(hereinafter referred to as the "*contractors* ").

3. The *consortium* shall carry out the work set out in Annex I to this *contract* (the "*project*") in accordance with the conditions set out in this *contract*.

4. The *consortium* shall make appropriate arrangements for its internal operation and management which may include any intellectual property provisions. To this end, a *consortium agreement* may be established, which will cover any other additional aspects necessary for the *consortium* management and the implementation of the *project*.

Article 2 - Constitution of the *consortium*

1. The *coordinator* shall ensure that the legal entities identified in Article 1.2 complete the formalities for them to accede to the *contract*. At the latest 30 calendar days after the entry into force of the *contract*, the *coordinator* shall send to the *Commission* one of the three duly completed and signed originals of Form A (set out in Annex IV), which shall be obtained from each of the *contractors* identified in Article 1.2. The two remaining signed originals shall be kept by the *coordinator* and the *contractor* concerned and be made available for consultation at the request of any other *contractor*.

2. Should any legal entity identified in Article 1.2 fail or refuse to accede to the *contract* within the deadline established in the previous paragraph, the *Commission* is no longer bound by its offer to contract with the said legal entity(ies). The *Commission* may terminate the *contract* in accordance with Article II.15.5, where any legal entity identified in Article 1.2 does not accede to the *contract* in accordance with the provisions established by the *Commission*.

3. However, the *consortium* may propose appropriate solutions to the *Commission* to ensure the implementation of the *project* including, where necessary, the accession to the *contract* of legal entities other than those identified in Article 1.2 in accordance with the provisions in Article 3.

4. In the case of termination, no costs incurred by the *consortium* under the *project* up to the date of *contract* termination can be approved or accepted as eligible for reimbursement by the *Community* financial contribution. Any *pre-financing* provided to the *consortium* and any interest generated by the *pre-financing* must be returned in full to the *Commission* within 30 days of notification of termination.

Article 3 - Evolution of the *consortium*

The *consortium* may be enlarged to include other legal entities, which shall accede to the *contract* by means of Form B (set out in Annex V). The *Commission* is deemed to have accepted this legal entity as a *contractor* in the *consortium*, if it does not object within six weeks of receipt of Form B. Any new *contractor* shall comply with the participation rules established by the *Rules for Participation*. This is subject to any condition required by the *Financial Regulation* or other formalities that may be required by any other provision of this *contract*.

They shall assume the rights and obligations of *contractors* as established by the *contract* with effect from the date of their accession to the *contract*. *Contractors* leaving the *consortium* shall be bound by the provisions of the *contract* regarding the terms and conditions applicable to the termination of their participation.

Article 4 - Entry into force of the *contract* and duration of *project*

1. This *contract* shall enter into force on the day of its signature by the *coordinator* and the *Commission*.
2. The duration of the *project* shall be 36 months from the first day of the month after the signature by the *Commission* (hereinafter referred to as the "*start date*").

This *contract* shall be completed once the rights and obligations of all the parties to the *contract* have been met. The implementation and payment phases relating to the *project* must be completed by the *final implementation date* of the *contract*.

The provisions set out in Articles II.7, II.9, II.10, II.11, II.29, II.30, II.31 and Part C of Annex II shall continue to apply after the *final implementation date* as well as any provisions in Annex III which specifically state that they shall continue to apply after the *final implementation date*.

Article 5 - *Community* financial contribution

The *Community* financial contribution shall be in the form of a grant to the budget.

The maximum *Community* contribution to the *project* shall be 1,400,000 EUR (one million four hundred thousand Euro). The *Community* financial contribution shall be limited to the maximum rates of contribution to the activities identified in Part B of Annex II, as modified by any provision of Annex III. Annex I indicates the estimated breakdown of costs and activities to be carried out under the *project*.

Article 6 - Reporting periods

The *project* is divided into reporting periods of the following duration:

- P1: from month 1 to month 12
- P2: from month 13 to month 24
- P3: from month 25 to the last month of the *project*.

Article 7 - Reports

1. Reports referred to in Article II.7.2 shall be submitted for each reporting period identified in Article 6 within 45 days of the end of the period in question. Reports shall be submitted in English.
2. Reports referred to in Article II.7.3 shall be submitted at the latest 45 days after the end of the following periods:
 - P(3) covering reporting periods from P(1) to the last reporting period of the *project*.
3. In addition to the reports for the last period, final activity and financial reports referred to in Article II. 7.4 (except for the report referred to in Article II.7.4.d)) shall be submitted to the *Commission* at the latest 45 days after the end of the *project*. This delay may be increased by 45 days at the request of the *consortium*. Where the work is completed before the end of the duration of the *project*, the related activity and financial reports shall cover the period up to that date.

Article 8 - Payment modalities

1. The *Community* financial contribution to the *project* shall be paid to the *coordinator* on behalf of

the *contractors* in accordance with the following provisions:

- a) the *consortium* shall determine the allocation of each tranche of the *Community* financial contribution between the *contractors*, in accordance with this *contract* and any relevant provisions in their *consortium agreement*.
- b) the payment of the *Community* financial contribution to the *coordinator* discharges the *Commission* from its obligation to make this payment to the *contractors*.
- c) the *coordinator* shall distribute the *Community* financial contribution without unjustified delay.

2. The *Community* financial contribution shall be paid in accordance with the provisions of Article II.28 and the following:

(a) *pre-financing* of 680,000.00 EUR (six hundred and eighty thousand Euro and zero Cents) of the estimated *Community* financial contribution corresponding to the first reporting period and the first six months of the subsequent reporting period indicated in the table of estimated breakdown of costs for this period in Annex I, within 45 days following the date the *Commission* is informed of the accession of the last *contractor* required to constitute the minimum number of participants established by the *Rules for Participation*, and as detailed in the call for proposals to which the *project* is related.

(b) - within 45 days following approval by the *Commission* of the reports relating to each reporting period:

If an audit certificate has been submitted:

- i) a payment to settle the amounts justified and accepted during the reporting period; and
- ii) an intermediate *pre-financing* of 80.00% of the estimated *Community* financial contribution corresponding to the subsequent period and the first six months of the period following, indicated in the table of estimated breakdown of costs for this period in Annex I.

Where the amount justified and accepted for the reporting period is less than the *pre-financing* already paid to the *consortium*, that part of the *pre-financing* is re-qualified as a payment and the *Commission* shall deduct the difference from the subsequent *pre-financing*.

Where the amount justified and accepted for the reporting period is more than the *pre-financing* already paid to the *consortium*, the *pre-financing* is re-qualified as a payment and the *Commission* shall add the difference as a complementary payment at the time of the payment of the subsequent *pre-financing*.

If an audit certificate has not been submitted:

- i) an intermediate *pre-financing* of 80.00% of the estimated *Community* financial contribution corresponding to the subsequent period and the first six months of the period following, indicated in the table of estimated breakdown of costs for this period in Annex I.

Where the amount justified and accepted for the reporting period is less than the *pre-financing* already paid to the *consortium*, the *Commission* shall deduct the difference from the subsequent *pre-financing*.

Where the amount justified and accepted for the reporting period is more than the *pre-financing* already paid to the *consortium*, the *Commission* shall add the difference to the subsequent *pre-financing*, within the limits established by the *Financial Regulation*.

(c) within 45 days following approval by the *Commission* of the reports relating to the last period and the final reports referred to in Article II.7, the *Commission* shall pay a final payment for that period.

(d) Any payment at the end of a reporting period accompanied by an audit certificate shall be considered as final, subject to the results of any audit or review, which may be carried out pursuant to the provisions of Article II. 29.

Total *pre-financing* may not exceed 80% of the *Community* financial contribution or, where final payments referred to in paragraph d have been effected, of the difference between the *Community* financial contribution and those final payments.

Where less than 70% of a *pre-financing* has been used at the end of a reporting period, and notwithstanding the approval by the *Commission* of the related reports, subsequent intermediate pre-financing may be paid only:

(i) if an audit certificate is provided for that reporting period; or

(ii) on the basis of a complementary periodic management report referred to in Article II.7.2 b that shall be submitted to the *Commission* once the above-mentioned spending rate has been achieved.

(e) Where no comments, changes or substantial corrections to any of the *project* activity reports or financial statements are required or where the *Commission* approves the reports more than 45 days after reception, the *Commission* shall make the appropriate payment within 90 days of receipt of the *project* activity reports and associated financial statements.

Where substantial comments, changes, further information or adjustments are requested by the *Commission* within this period, the delay is suspended upon notification by the *Commission*. The remainder of the 90 day payment period begins again only after submission by the *contractors* of the required information.

Article 9 - Special clauses

The following special conditions apply to this *contract*:

1. An amount of 94.800€ of the pre-financing referred to in Article 8.2.a shall be retained by the Commission until contractor Hidromod provides to the Commission a financial guarantee equivalent to that share.

Article 10 - Amendments

Any request for amendment to the *contract* shall be submitted in accordance with Article 11. Proposals for amendments submitted by the *coordinator* are requested on behalf of the *consortium*. The *coordinator* shall ensure that adequate proof of the *consortium's* agreement to such a request exists and is made available in the event of an audit.

The *Commission* shall undertake to approve or reject any request for an amendment within 45 days of its receipt. The absence of a response from the *Commission* within 45 days of receipt of such a request, or any other period provided for in the *contract*, does not constitute approval of the request, except for any modification or evolution of the *consortium* as foreseen in Article 3.

All amendments to the *contract* shall be in writing.

Article 11 - Communication

1. Requests for amendments and any communication foreseen by the *contract* shall identify the nature and details of the request or communication and be submitted in writing by means of registered mail with acknowledgement of receipt to the following addresses:

For the *Commission*: Commission of the European Communities
Research Directorate-General
B-1049 Brussels, Belgium

For the *coordinator*: Instituto Superior Técnico
Av. Rovisco Pais, n° 1,
Lisboa, 1049-001, Portugal

2. Where the *contract* foresees that information or documents are to be transferred by electronic means, the following functional mailboxes shall be used:

For the *Commission*: reginald.soenen@cec.eu.int

For the *coordinator*: PCF3025@alfa.ist.utl.pt

3. The bank account of the *coordinator* to which all payments of the *Community* financial contribution shall be made is:

Name of Account holder: Instituto Superior Técnico

Name of the bank: BPI

Account reference: 001000002159571000135

IBAN: PT50001000002159571000135

4. Each party to the *contract* shall inform the other parties without delay of any changes in the names or addresses identified in paragraphs 1 and 2 above.

Article 12 - Applicable law

The law of Belgium shall govern this *contract*.

Article 13 - Jurisdiction

The Court of First Instance or the Court of Justice of the European Communities, as is appropriate in the specific case, shall have sole jurisdiction to hear any disputes between the *Community* and the *contractors* as regards the validity, the application or any interpretation of this *contract*.

Article 14 - Annexes forming an integral part of this contract:

1. The following annexes form an integral part of this *contract*:

Annex I - Description of work

Annex II - General Conditions

Annex III - Not Applicable

Annex IV - Form A - consent of *contractors* to accede to the *contract*

Annex V - Form B - accession of new legal entities to the *contract*

Annex VI - Form C - financial statement per instrument

2. In the event of any conflict between the provisions of the Annexes to this *contract* and any provision of this part of the *contract*, the latter shall take precedence. The provisions of Annex III shall take precedence over the provisions of Annex II, and both shall take precedence over the provisions of Annex I.


3. The special conditions set out in Article 9 shall take precedence over any other provisions of this *contract*.

Done at Brussels , in English

For the *coordinator*

.....CARLES MARIUS THERIAULT.....
Name

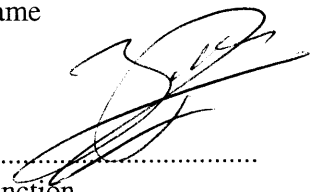
.....President.....
Function

.....
Signature
(stamp or seal of the organisation)

.....14.10.2004.....
Date

For the Commission

L. BELLEMIN
CHEF D'UNITE
.....
Name

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Function

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Signature

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Date 30. 11. 2004

