

# LICENSE AGREEMENT

between

**IUCN-The World Conservation Union**, an international organization of governmental and non-governmental members with its headquarters located at Rue Mauverney 28, 1196 Gland, Switzerland ("IUCN"),

and

**JAMIE BENIDICKSON**, on behalf of a non-profit Canadian corporation to be incorporated as **The IUCN Academy of Environmental Law**.

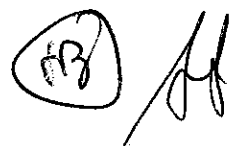
## Preamble

**Whereas** pursuant to its Resolution 2.24 (which is hereby incorporated by reference), the IUCN 3<sup>rd</sup> World Conservation Congress expressed the strong and clear intent that the Academy be established within the parameters and as a function of the IUCN Programme and, *inter alia*, requested the Chair of the Commission on Environmental Law ("CEL") "to develop a detailed statement of goals, functions, structures, and legal form of the Academy for the consideration of Council";

**Whereas** at its 57<sup>th</sup> meeting on 9-11 December 2002, Council considered and endorsed the IUCN Academy of Environmental Law proposal as set forth in Council Paper UC.57/2002/32 (the "Paper," which is incorporated hereto by reference), and "recommended that the Commission on Environmental Law launch the Academy as proposed" (Council Decision C/57/18);

**Whereas** at its 63<sup>rd</sup> meeting on 14-16 February 2005, Council requested "the Director General to develop, in consultation with the Academy and the Chair of the Commission on Environmental Law, the terms and conditions under which the Union's name and logo could be used by the Academy" (Council Decision C/63/33);

**Whereas** IUCN is the owner of all property and interest in the names, logo and trademarks enumerated in Art. I below; and



**Whereas** the Academy, as an entity recognized by the IUCN Council, desires to use the names, logo and trademarks enumerated in Art. I below in connection with its organizational name and logo as the "IUCN Academy of Environmental Law" and its publications and activities.

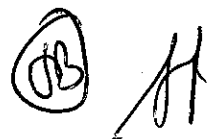
**Now therefore**, in consideration of the mutual promises, covenants and conditions contained herein, it is hereby agreed as follows:

### **I. Ownership of Rights**

IUCN is the sole and exclusive owner of all rights in and to the property and interests in the names, logo and trademarks of **IUCN, IUCN-The World Conservation Union, International Union for Conservation of Nature and Natural Resources, and World Conservation Congress** (hereafter referred to, severally or collectively as the context may reasonably indicate/require, as the "IUCN Name and Logo") and, with the exception of the rights being licensed by this Agreement, all other rights relating thereto are expressly reserved to IUCN.

### **II. License Grant, Quality Standards, Goodwill, and Fee**

1. IUCN hereby grants to the Academy, strictly pursuant to the terms and conditions set forth hereunder a non-exclusive, non-transferable and non-assignable (except in accordance with the terms hereof) license, with no right to grant sublicenses and revocable automatically and simultaneously with the expiration or termination of this Agreement, to use on a world-wide basis the IUCN Name and Logo in and/or in connection with the name and logo and the programme and activities of the Academy, and to affix the IUCN Name and Logo on or to the Academy's letterhead, literature, packaging, educational materials, news media, advertising, websites, and materials used, distributed or sold by the Academy, consistent with the terms and conditions of this Agreement (the "License").
2. All uses of the IUCN Name and Logo, including without limitation the letter-block design and the typeface thereof, shall be subject to IUCN's advance written approval of sample documents and products and shall conform to standards as determined by the IUCN Director General and as communicated in writing to the Academy from time to time.
3. In the event that IUCN finds, in its sole discretion, that the requisite quality standards are not met or maintained at any time during the term of this Agreement, at IUCN's request the Academy shall discontinue immediately the use, distribution, manufacture, sale and/or display of the publications and products that not comply with the requisite quality standards.
4. a. The Academy recognizes the value of the goodwill associated with the IUCN Name and Logo and acknowledges that the IUCN Name and Logo have acquired



secondary meaning. During the term of the Agreement and following its expiration or termination, the Academy shall not attack the rights of IUCN in such property or the IUCN Name and Logo or the validity of the License hereunder.

- b. The Academy acknowledges that its use of the IUCN Name and Logo inures to the benefit of IUCN and that the Academy shall not acquire any rights in the property or interest in the IUCN Name and Logo.
5. It is understood that, even though no license fee is due or payable as of the time of execution of this Agreement, IUCN reserves the right to charge, and the Academy hereby agrees to pay, such reasonable license fee as may be set in the future, upon twelve (12) months' notice from IUCN to the Academy and in an amount established by the IUCN Director General following consultation with the Academy.

### **III. Trademark Protection and Infringement**

1. IUCN may obtain, at its own cost and in its own name, appropriate copyright and trademark protection for the IUCN Name and Logo and the Academy shall cooperate with IUCN in protecting the latter's interests therein.
2. The Academy shall not at any time apply for any registration of any copyright, trademark or other designation which would affect IUCN's ownership of or interest in the IUCN Name and Logo, or file any document with any governmental authority to take any action that would affect IUCN's ownership of or interest in the IUCN Name and Logo.
3. The Academy shall not, at any time, use or authorize the use of any trademark, trade name, name or logo or other designation identical or colorably similar to the IUCN Name and Logo.
4. The Academy shall assist IUCN in the enforcement of IUCN's rights and interests in the IUCN Name and Logo. In the case of any claims or legal actions in respect thereof, IUCN shall employ legal counsel of its own choice and shall be entitled to receive and retain all amounts awarded as damages in connection with such claims or legal actions.
5. Should IUCN amend or alter to any extent the IUCN Name and Logo, the Academy shall promptly make all appropriate corresponding amendments to its use of the IUCN Name and Logo on its publications and products.



#### **IV. Terms and Conditions pertaining to the Academy's Structure and Undertakings**

IUCN grants the License to the Academy, and the Academy accepts the grant of the License, subject to the following express terms and conditions:

1. Role and objectives of the Academy and its relationship with IUCN:
  - a. The Academy, constituted as a distinct legal entity, shall consist of an autonomous network of university-based environmental law centres and academic experts, and shall work closely with IUCN's Director General, Environmental Law Centre, and CEL with the role of undertaking academic research, studies and conferences on the further conceptual development of environmental law, and with the objective of ascertaining how law can best advance a just society that values and conserves nature.
  - b. The Academy shall limit the scope of its activities, including its fundraising activities, to academic endeavours that promote the achievement of the Mission of IUCN and, more specifically, the Programme of IUCN and the Mandate of CEL.
  - c. IUCN recognizes that much of the fund-raising intended to support Academy initiatives will be carried out by member and partner universities, research centers and other collaborators. Subject to all of the terms and conditions of the License granted under this Agreement, nothing herein is intended to prevent or restrict these organizations from pursuing fund-raising in the name of the Academy and in support of Academy projects and programmes that are connected to activities and initiatives of the said organizations.
  - d. In order to attain its stated purposes and objectives, the Academy shall at all times coordinate its activities, including its fundraising activities, with the IUCN Environmental Law Programme ("ELP"), and it shall not compete with, but rather complement, the work and activities of the ELP through its academic endeavours.
  - e. The Academy shall neither require nor have any right to financial support from IUCN and, subject to the terms, conditions and parameters set forth in this Agreement, it shall be autonomous of IUCN in its governance process and in its activities.
  - f. The Academy shall provide to the Director General of IUCN a reasonably detailed annual written report on its activities ("Annual Report"), including its fundraising activities and financial status, which shall serve as the basis for renewal of this Agreement.
  - g. Background and other information materials that the Academy may distribute to the public shall include prominent reference to the contribution made by IUCN, and in particular by the ELP, to the establishment of the Academy.
  - h. The Academy shall have no authority to, and therefore shall not:
    - i. Undertake any of its activities in the name or on behalf of IUCN;
    - ii. Issue any statements in the name or on behalf of IUCN;



- iii. Conduct any fundraising in the name or on behalf of IUCN;
- iv. Commit IUCN to any financial, legal or policy obligations.

## 2. Membership

Membership in the Academy shall be open to the following categories, subject to admission requirements and criteria specified in the by-laws:

- a. Institutional members: consisting of individual university environmental law centres participating in their own right or on behalf of the university with which they are associated ("Law Centre(s)");
- b. Fellows of the Academy: consisting of individual professors distinguished in the field of environmental law;
- c. Academicians of the Academy; and
- d. Advisory Council members.

## 3. Governance

### a. Academic Collegium:

- i. An Academic Collegium (the "Collegium") shall be established, whose role (as may be further specified in the Academy's by-laws) shall be to direct the research and other programs and activities of the Academy.
- ii. Each Law Centre shall be entitled to appoint a representative as a member of the Collegium.
- iii. The representatives of Law Centres in the Collegium shall elect the Director of the Academy and the members of the Bureau.
- iv. The Chair of CEL and the Head of ELP, or their respective nominees, shall be *ex officio* members of the Collegium.

### b. Bureau of the Collegium:

- i. A Bureau of the Collegium (the "Bureau"), consisting of between 5-9 members, shall be elected by the representatives of Law Centres on the Collegium.
- ii. The Bureau shall function as an executive committee and (subject to further definition of its role in the Academy's by-laws) shall be responsible for defining and undertaking the management of the day-to-day projects, programs and operations of the Academy.
- iii. The Bureau shall elect its Chair who, if not already a member of the Bureau, shall become its member *ex officio*.
- iv. The Bureau shall recommend for election as Director of the Academy by the Collegium an individual who, if not already a member of the Bureau, shall become its member *ex officio*.

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v. The Chair of CEL and the Head of ELP, or their respective nominees, shall be *ex officio* members of the Bureau.

c. Ethical conduct

The Academy shall govern itself in an open, transparent and ethical manner and shall ensure that the terms and conditions of this Agreement (as it may be amended by the Parties from time to time) are clearly communicated to the Academy's members. The Academy shall take all reasonable steps to ensure that its members adhere to those terms and conditions, and a repeated failure of the said members to do so may be considered by IUCN a material breach of this Agreement.

4. IUCN acknowledges that the Academy shall be required to abide by the laws of Canada and, subject to the termination provisions in Art. VI.3 and/or 4, will not interfere with any changes in any provisions of this Agreement relating to Membership in and/or Governance of the Academy that may be required by the laws of Canada.

**V. Programme and Financing of the Academy**

While the Academy shall remain autonomous from IUCN as provided for hereunder, the initial components of its programme and its fundraising activities shall be substantially consistent with Section VII ("The Programme of the IUCN Academy of Environmental Law") and Section VIII ("Financing for the Academy") of the Paper.

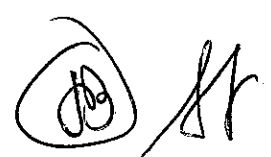
**VI. Term and Termination**

1. This Agreement shall become effective on the date of execution by both Parties ("effective date"), and shall remain in force until 31 December 2007 ("initial term").

2. Thereafter, the Agreement will be renewed tacitly and automatically for additional consecutive one-year terms ("renewal term(s)"). Provided, that such renewals shall be subject to the Academy's submission to the Director General of its Annual Report by no later than thirty (30) days following its financial year-end date, and to the Director General's written acceptance of the Annual Report, which (in case of acceptance) will be provided to the Academy within forty-five (45) days following the date on which the Annual Report was first submitted to the Director General.

3. It is understood that if the Academy fails to submit the Annual Report for any of the initial or renewal terms, or if, in the reasonable opinion of the Director General, the Annual Report submitted for any particular term does not adequately account for or reflect the activities and role for which the IUCN Council authorized the establishment of the Academy, then IUCN may terminate this Agreement upon sixty (60) days' advance written notice to the Academy.

4. IUCN shall also have the right to terminate this Agreement for other material breach, upon written notice to the Academy with immediate effect. In this respect,



material breach shall include, by way of example and not limitation, any use of the IUCN name and logo that (a) is inconsistent with or contrary to the terms and conditions of this Agreement and (b) is not discontinued immediately upon the Academy's receipt of notice of the breach from IUCN.

5. Upon termination of the Agreement, and as of the effective date of such termination:
  - a. The Academy immediately shall discontinue the use of the IUCN Name and Logo in the manufacture, display, circulation, publication and/or other presentation of its documentation and products;
  - b. All legal rights and goodwill associated with the IUCN Name and Logo remain the property of IUCN and the Academy shall make no claim to them;
  - c. The Academy shall send to IUCN, or certify in writing the destruction of, all letterhead, literature, packaging, educational materials, advertising, news media, web sites and all other materials manufactured for distribution or sale on which the IUCN Name and Logo appear;
  - d. The Academy may, in its sole discretion, continue to exist and carry out its activities, but it shall have no right to make any further use of the IUCN Name and Logo or otherwise to publicise any association of its activities with IUCN.
6. IUCN and the Academy recognize the value of the contributions that other organizations and institutions will make to the success of the Academy. The Parties agree that, in the event of a dispute in connection with, or of either Party's termination of, this Agreement, they will make reasonable efforts to avoid or minimize any prejudice to the operations and activities of said institutions and organizations.

#### **VII. Liability and Indemnification**

1. IUCN shall not be liable for any expenses, losses or damages of any sort that may be incurred or sustained by the Academy.
2. The Academy shall defend, indemnify and hold harmless IUCN, its officers, employees and agents from and against any and all third-party liability, claims, demands and legal actions for any damages, losses and expenses (including reasonable legal fees) arising out of or in connection with the Academy's exercise of the License granted hereunder.

#### **VIII. Assignment upon Incorporation**

1. Upon incorporation of the Canadian non-profit corporation, Jamie Benidickson shall assign this Agreement, including its benefits and burdens, to that corporation.
2. The Canadian corporation shall accept that assignment and adopt this Agreement upon an authorizing resolution being passed at a telephone meeting to be arranged in August or September 2006, or, failing which, not later than the next meeting of

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the Governing Council to be held on 15 October 2006 at White Plains, New York. It is understood that if, for whatever reason, no such assignment, acceptance and/or adoption of the Agreement have/has been completed by 16 October 2006, the Agreement shall be deemed automatically terminated as of that same date, subject to any and all provisions hereunder applicable in case of termination including, without limitation, those in Art. VI.5.

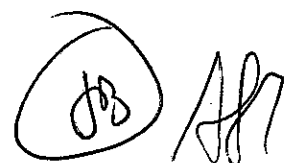
3. Upon acceptance and adoption by the Canadian corporation, all references to the Academy herein shall be deemed to be references to the Canadian corporation and the Canadian corporation shall become subject to this Agreement as if it had originally executed the Agreement.

#### **IX. Choice of Law and of Forum, Dispute Resolution**

1. The interpretation and performance of this Agreement shall be governed in all respects by the laws of Switzerland, excluding conflict of laws provisions. The competent courts of Switzerland shall have exclusive jurisdiction over any and all actions hereunder, including actions in connection with the enforcement of any arbitral award.
2. Should any dispute arise between the Parties concerning their respective rights, duties or liabilities under this Agreement, such dispute shall be settled exclusively and finally by arbitration under the UNCITRAL Arbitration Rules in effect at the time the dispute arose, and in accordance with the following provisions:
  - a. The number of arbitrators shall be three (3), unless the Parties agree to one arbitrator;
  - b. The place of the arbitration shall be IUCN Headquarters, in Gland, Switzerland;
  - c. The language to be used in the arbitral proceedings shall be English, with each of the Parties providing its own language interpretation services at its own expense.
3. The UNCITRAL Arbitration Rules are incorporated into this Agreement by reference, and copies are available from The United Nations Commission on International Trade Law (UNCITRAL), P.O. Box 500, A-1400, Vienna, Austria, or may be downloaded from the UN Internet website through the following link: <http://www.jus.uio.no/lm/un.arbitration.rules.1976/>

#### **X. Modification of Agreement**

This Agreement may be modified only by a further written agreement executed by both Parties.

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## **XI. Notice**

1. Except as may be expressly provided otherwise in the Agreement, all notices or other communications from one Party to the other permitted or required hereunder shall be sent by e-mail and by facsimile at the e-mail addresses and facsimile numbers indicated below:

### **For IUCN:**

Dr. Alejandro Iza, Head  
IUCN Environmental Law Center  
Godesberger Allee 108-112  
53175 Bonn  
Germany  
Email: [alejandro.iza@iucn.org](mailto:alejandro.iza@iucn.org)

### **For the Academy:**

Prof. Jamie Benidickson  
Faculty of Law  
University of Ottawa  
57 Louis Pasteur  
Ottawa, Ontario  
Canada K1N 6N5  
Email: [Jamie.Benidickson@uottawa.ca](mailto:Jamie.Benidickson@uottawa.ca)

2. Any such notice or other communication shall be deemed received on the next business day (in the jurisdiction of the recipient) following the day of its transmission by facsimile. Each Party may change its e-mail addresses or facsimile numbers by notice to the other Party.

## **XII. Severability**

If any term or provision of this Agreement shall be held illegal, void, unenforceable under or otherwise in conflict with the laws of any competent jurisdiction, the validity of the remaining terms or provisions of the Agreement shall not be affected thereby and shall remain in full force and effect to the extent allowed by applicable law.

## **XIII. No Waiver**

A waiver by either Party of any breach by the other Party of any term of this Agreement shall not be or deemed to be a waiver of any other preceding or subsequent breach of the same or any other term.

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**XIV. Force Majeure**

The performance of this Agreement by either Party is subject to acts of God, war, government regulations, disaster, strikes, civil disorders, curtailment of transportation facilities, and other emergencies making it illegal or impossible for either Party to perform its obligations. It is understood that this Agreement may be terminated unilaterally without penalty for any one or more of the foregoing reasons by written notice from one Party to the other.

**XV. Entire Agreement**

This Agreement contains the entire understanding between the Parties with respect to the subject matter hereof, and supersedes any and all prior and contemporaneous agreements and understandings between the Parties concerning said subject matter.


**XVI. Execution**

This Agreement has been executed by the Parties in two (2) counterparts, each of which shall be deemed an original, and which together shall constitute one and the same instrument.

**IUCN – The World Conservation  
Union**

**Jamie Benidickson, on behalf of a  
non-profit Canadian corporation to  
be incorporated as The IUCN  
Academy of Environmental Law**

Signed:   
Achim Steiner  
Director General

Signed: 

Date: 22/05/06

Date: 29/05/06

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