



Terms and Conditions for Use
of the Hydropower Sustainability
Assessment Protocol
and
the Hydropower Sustainability ESG Gap
Analysis Tool

November 2019

Whereas:

- a) The Hydropower Sustainability Assessment Protocol (HSAP) and the Hydropower Sustainability Environmental, Social and Governance Gap Analysis Tool (HESG) are to be freely available as a tool to inform dialogue and policy.
- b) The HSAP and HESG are available to all parties without charge from www.hydrosustainability.org.
- c) Use of the HSAP and HESG is to be governed to promote its widespread use, protect its integrity, ensure appropriate qualification of trainers and assessors and provide quality control.
- d) The Council, through its Governance Committee retains the right to oversee the appropriateness of any use of the HSAP and HESG.
- e) Accredited Assessors have been trained in the correct and appropriate use of the HSAP and HESG and provide assurance that where third parties are providing services to others in respect of the HSAP, quality control is ensured.
- f) Accredited Assessors have entered into an appropriate License Agreement in respect of the HSAP or HESG Tool that governs how they use it, and revenue streams derived from its use.

The Terms and Conditions for such use are set out below:**1. Definitions**

- 1.1. **HSAP** will mean the four standalone tools of the Hydropower Sustainability Assessment Protocol, namely 'early stage', 'preparation', 'implementation' and 'operation'.
- 1.2. **HESG** will mean the Hydropower Sustainability Environmental, Social and Governance Gap Analysis Tool.
- 1.3. **Accredited Assessors** will mean any Provisionally Accredited Assessor, Accredited HESG Assessor, Accredited HSAP Assessor, Fully Accredited Assessor or Accredited Lead Assessor.
- 1.4. **Provisionally Accredited Assessor** will mean an assessor that has passed a recognised training course, organized by the Management Entity of the HSAP and HESG Tool but who has yet to fulfil, in a satisfactory manner, the practical training involved with becoming an accredited HESG Tool and/or HSAP assessor.
- 1.5. **Accredited HESG Assessor** will mean an assessor that holds current accreditation to use the HESG Tool.
- 1.6. **Accredited HSAP Assessor** will mean an assessor that holds current accreditation to use the HSAP.
- 1.7. **Fully Accredited Assessor** will mean an assessor that holds a current accreditation for both the HSAP and the HESG Tool.

- 1.8. **Accredited Lead Assessor (ALA)** will mean any Accredited HSAP Assessor or Fully Accredited Assessor who has demonstrated the requisite skills and experience to lead an HSAP Assessment in line with the rules for becoming a lead assessor as established by the HSGC from time to time.
- 1.9. **Assessment** will mean any of the four stand-alone Assessment Tools applied at particular stages of the project life cycle: Early Stage, Preparation, Implementation, and Operation or an assessment using any of the three stages of the HESG Tool: Preparation, Implementation and Operation.
- 1.10. **Council** will mean The Hydropower Sustainability Assessment Council, as defined by its Charter.
- 1.11. **ME** will mean The Management Entity as defined in the Charter.
- 1.12. **IHA** will mean International Hydropower Association.
- 1.13. **Project Sponsor** will mean the organisation with primary ownership or responsibility for a project at its particular lifecycle stage.
- 1.14. **Client** will mean the organisation commissioning the assessment, which may be the project sponsor.
- 1.15. **Report** will mean a report based on templates generated by the ME and required for use in all Official assessments.
- 1.16. **Public disclosure** will mean any disclosure by the Client, outside the Client's organisation.
- 1.17. **Commercial Purposes** will mean any use of the HSAP or HESG Tool with the intention of generating fees or where revenue is in fact derived, from such use, pursuant to guidance adopted by the HSGC from time to time.

2. Intellectual property

- 2.1 The HSAP and HESG Tool, with their previous drafts, are protected by IHA through international intellectual property law, including copyright.
- 2.2 IHA vests in the Council the right to act on its behalf in regulating the use of the HSAP and HESG, and protecting the intellectual property in, and to the HSAP and HESG.
- 2.3 Any use of the HSAP or HESG that does not comply with the contents of this document shall be regarded as unauthorised use of the HSAP, in breach of these intellectual property rights.

3. Types of Use

- 3.1 **The HSAP and HESG** are used as a structured sustainability assessment framework from which to produce a sustainability profile for a project. The sustainability profile is not to be understood as a sustainability standard.

3.2 **The HESG** is based on the Hydropower Sustainability Assessment Protocol and is a structured gap analysis report which identifies gaps against good practice related to environmental, social and governance aspects of the HSAP scoring statements.

3.3 **The HSAP, HESG and their supporting materials** will be used for a variety of purposes, including assessments, training, consultancy and capacity building.

3.4 **Any use of the HSAP or HESG** will be regarded as either for Commercial Purposes or non-commercial use (as provided for in paragraph 4).

3.5 **Any assessments using the HSAP or HESG** will be either Official or Unofficial (definitions are set out in paragraphs 6 and 7).

3.6 The Council retains the right to satisfy itself that any assessment report constitutes an appropriate application of the HSAP or the HESG Tool.

4. Commercial and Non-Commercial Use

4.1 Only Accredited Assessors are entitled to use the HSAP or HESG for Commercial Purposes.

4.2 By derogation to the provisions of 4.1 above, duly appointed and trained members of staff of the ME are permitted to use the HSAP or HESG for all commercial purposes other than for official assessments.

4.3 Any use contrary to 4.1 will be regarded as Unauthorised use as per paragraph 2.

5. Claims

No Claims in respect of the HSAP or HESG may be made unless such use is Official, and the publication requirements in terms of paragraph 9 have been met.

A Claim in respect of the HSAP or HESG is:

- 5.1. Any public disclosure of, the results of an Official Assessment, including either specific scores, specific HESG Tool gap profiles or general representations about how well a project performed under an assessment; or
- 5.2. Use of any templates provided for Official assessments, including any proprietary logos and diagrams.
- 5.3. No HSAP assessment reports (Unofficial or Official) or HESG Tool reports may make statements regarding the certification of the project in question as 'certified sustainable' or similar claims regarding a 'pass' or 'fail' of a sustainability standard.

6. Official use of the HSAP or HESG

To be regarded as an Official HSAP or HESG assessment, assessments must fulfil all of the following criteria:

- 6.1. Use an accredited assessor (see paragraph 8); and
- 6.2. Involve the principal organisation(s) responsible for the project, demonstrated by written support from the Project Sponsor. This document is to be included in any draft reports and the final report; and
- 6.3. Comply with any other guidelines for Official assessment as published from time to time by the Council.

7. Unofficial use of the HSAP or HESG

Any HSAP or HESG assessment which do not meet all the criteria outlined in paragraph 6 constitutes an Unofficial use.

- 7.1 The HSAP or HESG will be available for Unofficial use to all parties from the duly designated Hydropower Sustainability Assessment Protocol website.

Such Unofficial use may include:

- 7.1. Informing dialogue;
- 7.2. Guiding business systems and processes; or
- 7.3. In-house assessments.
- 7.4. Results of any such use may be made publicly available provided:
- 7.5. The entity conducting the assessment has taken reasonable steps to obtain the permission of the Project Sponsor to conduct the assessment, and where this consent is forthcoming, taken all reasonable steps to accommodate the terms of such permission; and

The content of the Hydropower Sustainability Assessment Tool that has been applied in both form and substance; and

- 7.6. The following disclaimer appears in a clearly visible and prominent position on the cover of the published document and added to any sustainability profile diagrams used:
- 7.7. 'Disclaimer: This assessment is an Unofficial assessment as it does not comply with the necessary terms required of an Official assessment. The results of this assessment do not necessarily reflect the quality required of an Official assessment and may not be an accurate reflection of the sustainability of the assessed project'; and

- 7.2 In cases where the assessment is done without the collaboration of the Project Sponsor, the following must be included under the disclaimer referred to above:
 - a. 'Furthermore, this assessment does not have the benefit of evidence that would have been supplied by the Project Sponsor to complete the assessment'; and
 - b. Any document published in terms of clause 7.1 h. must carry the words 'Unofficial assessment' at the head of each page in a clearly visible format; and

- c. The identity of the person conducting the assessment, and where appropriate, the organisation he or she represents, is disclosed on the assessment document.

8. Accreditation of assessors

Accreditation is defined as:

- 8.1 Completion of a programme of training which has been authorised by the Council; and
- 8.2 The issuance of a licence (Provisional, HESG, HSAP and Full Accreditation), which provides formal accreditation to assessors. This licence represents an agreement entered into between the accredited assessor and the Council regarding the terms and conditions of their accreditation. This will reflect the code of conduct to be adopted by assessors; and
- 8.3 Complying with, and remaining in compliance with, all the terms of that licence, including in relation to payment of fees and obligations relating to continuous professional training.
- 8.4 Only individuals may be accredited. Accreditation cannot pass between different members of the same organisation.
- 8.5 Only individuals who have passed the accreditation training and who hold a valid licence are accredited to conduct official assessments, or to use the HSAP or HESG Tool for commercial purposes.
- 8.6 To qualify as **Provisionally Accredited Assessor**, the candidate has passed a recognised training course, but has yet to fulfil the practical training involved with becoming an Accredited HESG or HSAP Assessor.
- 8.7 To qualify as **Accredited HSAP Assessor**, the assessor has completed one (1) Official HSAP Assessment as a Provisionally Accredited Assessor. This is subject to a positive appraisal by the Accredited Lead Assessor involved in the assessment. This provision applies to Provisionally Accredited Assessors, and Accredited HESG Assessors.
- 8.8 To qualify as **Accredited HESG Assessor**, the assessor has completed one (1) Official HESG Assessment as a Provisionally Accredited Assessor subject to a positive appraisal by an Accredited HESG Assessor involved in the assessment. This provision applies to Provisionally Accredited Assessors, Accredited HSAP Assessors, and Accredited Lead Assessors who are not Fully Accredited Assessors.
- 8.9 To qualify as **Fully Accredited Assessor**, the Assessor has qualified as Accredited HESG Assessor and Accredited HSAP Assessor.
 - To qualify as **Accredited Lead Assessor**, the assessor has qualified as Accredited HSAP Assessor and, should have:
 - a. within any 24-month period, participated in at least three assessments where he/she was responsible for at least six different HSAP topics, across at least two of the lifecycle stages of the HSAP; and
 - b. served as a trainee Accredited Lead Assessor on an Official Assessment under the guidance of an Accredited Lead Assessor; and
 - c. demonstrated proficiency in the following key Lead Assessor areas of competence:

- i. Reviewing and taking responsibility for the report content of at least six topics across the range of topic themes (environmental, social, technical and financial);
- ii. Planning and managing aspects of the assessment, including communication with the client and scheduling interviews through the single point of contact;
- iii. Taking on responsibilities with regard to managing the assessment team: including allocating the work on each topic to members of the team, coordinating meetings, and assuring timely and quality completion of each topic assessment.
- iv. Determining the readiness of the client for the performance of the assessment.
- v. Finalisation of the Report, including consideration of comments from Client and public.

9. Publication

- 9.1 Any Claims can be made, or within 14 calendar days of any Claims having been made, in respect of the HSAP or HESG as provided for in section 5, the Report must be published on both the Project Sponsor's website and on www.hydrosustainability.org.
- 9.2 Publication of the Report will start a 60 calendar day period of comment on the report. Comments must be delivered electronically to the ME, the accredited assessor and the project sponsor. At the close of this period, a 30 calendar day period of Report revision by the accredited assessor in conjunction with the project sponsor is available. The accredited assessor is not obliged to respond to comments. In the event that the accredited assessor chooses to amend the Report in response to comments, the amended Report is published within 30 days on both the Project Sponsor's website, and on a website designated by the ME. The final Report must include an annex outlining the changes made/not made in response to comments received.
- 9.3 All comments received will be published at the same time, along with any response from the accredited assessors, at the close of the 30-day comment period provided for in clause 9.2 above.
- 9.4 The publication of a HSAP or HESG Tool assessment which does not meet the requirements of an Official assessment, yet in intent and design implies that it is an Official assessment, constitutes unauthorised use of the HSAP or HESG and will be considered in breach of these Terms and Conditions.

10. Partial re-assessment

One of the stated aims of the HSAP or HESG is continuous improvement. Assessments may identify specific issues or topics that if addressed can lead to immediate improvements on projects, and it is recognised that such improvements should be capable of being included in the assessment results.

Official assessments may thus be partially re-assessed in specific circumstances, where:

- a. The issue or topic is capable of being remedied within the period allowed;
- b. The issue or topic must have a clearly identified resolution;
- c. The issue or topic must not have significant linkages with other topics;

- d. The partial re-assessment must be undertaken by the assessor who originally assessed the topic in question, or the Lead Assessor on the assessment. In the case of a HSAP assessment, the results of the re-assessment must be signed off by the Lead Assessor on the original assessment.
- e. And provided such re-assessments follow the procedures and rules set out in the 'Process for immediate remedial action of specific assessment topics', found here: <http://www.hydrosustainability.org/IHAHydro4Life/media/PDFs/Remedial-action-July-2014.pdf>
- f. Any such re-assessment will be subject to the same comment provisions provided for the original assessment, as set out in paragraph 9.

11. Revisions to the Terms and Conditions

- 11.1 Any revisions to these Terms and Conditions are subject to the approval of the Governance Committee of the Council.
- 11.2 These Terms and Conditions shall be reviewed within one year, and then periodically reviewed at intervals no greater than 5 years.
- 11.3 In the event that any language in the Background document of the HSAP or HESG contradicts these Terms and Conditions, these Terms and Conditions will take precedence.

12. Breach

Any use in contravention of these Terms and Conditions constitute unauthorised use of the HSAP or HESG in violation of the intellectual property rights in and to both.