Contract for Services

[Registry file # - Consultancy name]

The Parties

Secretariat of the Pacific Regional Environment Programme (SPREP) **(Buyer)**

PO Box 240, Apia, Samoa

and

XXX **(Supplier)**

[Address]

The Contract

Agreement

The Buyer appoints the Supplier to deliver the Services described in this Contract and the Supplier accepts that appointment. This Contract sets out the Parties' rights and obligations.

The documents forming this Contract are:

1. This page **Page 1**
2. Contract Details and Description of Services **Schedule 1**
3. Standard Terms and Conditions **Schedule 2**
4. Any other attachments described at Schedule 1.

How to read this Contract

5. Together the above documents form the whole Contract.
6. Any Supplier terms and conditions do not apply.
7. Clause numbers refer to clauses in Schedule 2.
8. Words starting with capital letters have a special meaning. The special meaning is stated in the Definitions section at clause 17 (Schedule 2).

Acceptance

In signing this Contract each Party acknowledges that it has read and agrees to be bound by it.

For and on behalf of the **Buyer**:		For and on behalf of the **Supplier**:	
_____ (signature)		_____ (signature)	
name:		**name:**	
position:		**position:**	
date:		**date:**	

Schedule 1

Contract Details and Description of Services

Start Date	As soon as both parties sign the agreement.	**Reference Schedule 2 clause 1**
End Date		**Reference Schedule 2 clause 1**

Contract Managers Reference Schedule 2 clause 4		Buyer's Contract Manager	Supplier's Contract Manager
	Name:		
	Title / position:		
	Address:	SPREP Vailima Samoa	
	Phone:	+685 21929	
	Fax:	+685 20231	
	Email:		

Addresses for Notices Reference Schedule 2 clause 14		Buyer's address	Supplier's address
	For the attention of:	Contract Manager	Contract Manager
	Delivery address:	SPREP	As above
	Postal address:	P.O. Box 240, Apia, SAMOA	TBC
	Fax:	+685 20231	
	Email:	As above	As above

Description of Services

Context:

Description of Services:

Deliverables

Deliverable/Milestone	Performance Standards	Due date

The supplier must supply the services to the extent applicable, in compliance with SPREP's Values and Code of Conduct https://library.sprep.org/sites/default/files/sprep-organisational-values-code-of-conduct.pdf. Including SPREP's policy on Child Protection, Environmental Social Safeguards, Fraud Prevention & Whistleblower Protection and Gender and Social Inclusion.

Supplier's Reporting Requirements
Reference Schedule 2 clause 5

Report to:	Type of report	Due date
Contract Manager		

CHARGES: The following section sets out the Charges. Charges are the total maximum amount payable by the Buyer to the Supplier for delivery of the Services. Charges include ***Fees***, and where agreed, ***Expenses*** and ***Daily Allowances.*** The Charges for this Contract are set out below.

Fees
Reference Schedule 2 clause 3

The Supplier's Fees:

The total Consultancy costs is USD$ inclusive of GST.

Two percent (2%) is deductible from the final fee for every 7 days of delay from the End Date, unless the Parties agree otherwise.
The supplier agrees it is responsible for:

a) payment of applicable taxes, superannuation and the like;

b) all insurance cover such as medical, travel and professional liability.

Expenses
Reference Schedule 2 clause 3

If travel is required,

a) SPREP will provide the Consultant with a return economy airfare by the most direct and economical route available.

b) A per diem allowance at current SPREP rates on the approved itinerary will be paid in advance by SPREP, or where appropriate by the agreed work commencement date.

c) If there are any variations to the initially approved itinerary, a reconciliation of actual entitlement against actual advance must be submitted to SPREP at the completion of the Agreement and any refunds by either Party made at that time.

Daily Allowance
Reference Schedule 2 clause 3

Refer Expenses above.

Invoices
Reference Schedule 2 Subject to clauses 3 and 11.7

The Supplier must send the Buyer an invoice for the Charges at the following times:

On the following dates subject to completion and acceptance of the relevant [Deliverables/Milestones].

Deliverable/Milestone	Due date	Amount due (incl. GST)

Total (including GST)		

Address for invoices

Reference Schedule 2 clause 3

	Buyer's address
For the attention of:	
Physical address:	SPREP
Postal address:	P.O. Box 240, Apia, SAMOA
Email:	
Fax:	

Supplier's Bank Information.

Reference Schedule 2 clause 3

The Supplier shall provide the Buyer with the required bank information for payments to be made:

Account Name:	
Account Number:	
Name of Bank:	
Name of Branch:	
Country Address:	
Swift Code:	

Insurance

Reference Schedule 2 Clause 8.1

INSURANCE: (clause 8.1 Schedule 2)

From the Start Date and for the periods specified in the above clause:

1. to the extent required by Law, workers' compensation insurance in respect of the Supplier's liability for any loss or claim by a person employed or otherwise engaged, or deemed to be employed or otherwise engaged, by the Supplier in connection with the Services;
2. public liability insurance covering legal liability (including liability assumed under contract) for loss or damage to property or injury or death to persons arising out of or in connection with carrying out the Services for an insured amount of 3 times the total contract amount.
3. either professional indemnity or errors and omissions insurance for an insured amount of 3 times the total contract amount.

Changes to Schedule 2 and additional clause/s	

Attachments Reference 'Contract documents' described at Page 1	**Annex 1: Terms of Reference** **SPREP, Child Protection Policy, 2016** **SPREP, Environmental and Social Safeguards** **SPREP, Gender and Social Inclusion Policy** **SPREP, Fraud Prevention & Whistleblower Protection** Copies of these policies are found on the SPREP website, or these can be accessed through this link. During the term of this Contract, the policies may be modified. Absent any objection from Service Provider, all such subsequent modifications are deemed accepted by the Service Provider.

ANNEX 1: TERMS OF REFERENCE

Schedule 2 Standard Terms and Conditions - Services

1. Length of Contract

1.1 This Contract starts on the Start Date. Services must not be delivered before the Start Date.

1.2 This Contract ends on the End Date unless terminated earlier.

2. The Services

Both Parties' obligations

2.1 Both Parties agree to:

a. act in good faith and demonstrate honesty, integrity, openness and accountability in their dealings with each other

b. discuss matters affecting this Contract or the delivery of the Services, whenever necessary

c. notify each other immediately of any actual or anticipated issues that could:

i. significantly impact on the Services or the Charges

ii. receive media attention, and

d. comply with all applicable laws and regulations.

Buyer's obligations

2.2 The Buyer must:

a. provide the Supplier with any information it has reasonably requested to enable the delivery of the Services

b. make decisions and give approvals reasonably required by the Supplier to enable delivery of the Services. All decisions and approvals must be given within reasonable timeframes, and

c. pay the Supplier the Charges for the Services as long as the Supplier has delivered the Services and invoiced the Buyer, all in accordance with this Contract.

Supplier's obligations and indemnity

2.3 The Supplier must deliver the Services:

a. on time and to the required performance standards or quality set out in Schedule 1 or reasonably notified by the Buyer to the Supplier from time to time

b. within the amounts agreed as Charges, and

c. with due care, skill and diligence, and to the appropriate professional standard or in accordance with good industry practice as would be expected from a leading supplier in the relevant industry.

2.4 The Supplier must:

a. ensure that its Personnel have the necessary skills, experience, training and resources to successfully deliver the Services

b. provide all equipment and resources necessary to deliver the Services, and

c. comply with its own Standards of Integrity and Conduct and any other relevant codes of conduct listed in Schedule 1 or notified by the Buyer to the Supplier from time to time.

d. ensure no conflict of interest exists or is likely to arise in the performance of its obligations under this Contract;

e. ensure the Deliverables will be of merchantable quality and fit for any purpose specified by the Buyer or for which the Buyer might reasonably be expected to use the Deliverables;

f. ensure all information included in any document is correct, complete and not misleading in any material respect;

g. ensure in undertaking the obligations under this Contract it will not be in breach of any obligation owed to any other person nor infringe the Intellectual Property Rights of any person;

h. ensure that except to the extent of a party’s pre-existing intellectual property being incorporated or used for the creation of the Deliverables, the Deliverables and new intellectual property arise from the original work of the Supplier and will not infringe the Intellectual Property Rights of any person and upon delivery or creation the Buyer will obtain absolute and unencumbered legal and beneficial ownership of the Deliverables and New Intellectual Property.

2.5 Where an Approved Personnel has been authorised by the Buyer in Schedule 1, the Supplier must use the Approved Personnel in delivering the Services. The Supplier must obtain the Buyer's prior written approval if it wishes to change any Approved Personnel.

2.6 If the Supplier is at the Buyer's premises or at each location where Services are supplied or Deliverables are produced or tested the Supplier must observe the Buyer's policies and procedures, including those relating to health and safety, environmental,

security, privacy, quality and other policies, directions and procedures. The Buyer must tell the Supplier what the relevant policies and procedures are, and either give the Supplier a copy of them or provide an internet link.

2.7 If the nature of the Services requires it, the Supplier will deliver Services:

a. that are culturally appropriate

b. that respects the personal privacy and dignity of all participants and stakeholders.

2.8 The Supplier must:

a. liaise with the Buyer's Contract Manager regarding all matters relating to the Services, Deliverables or this Contract; and

b. comply with the directions of the Buyer's Contract Manager that are consistent with this Contract.

2.9 The Supplier must deliver the Deliverables to the Buyer at the place of delivery specified in Schedule 1. Risk in the Deliverables passes to the Buyer upon physical delivery to the Buyer. Property in the Deliverables passes to the Buyer upon the earlier of physical delivery to the Buyer or payment of the Charges for those Deliverables, unless payment is bona fide in dispute in which case property passes upon physical delivery to the Buyer.

2.10 The Supplier must obtain the Buyer's written approval before carrying out additional work, or incurring or committing to additional costs, not included in Schedule 1.

2.11 The Supplier releases and indemnifies the Buyer, its Personnel - from and against all actions, claims, proceedings and demands (including those brought by third parties) which may be brought against it or them, whether on their own or jointly with the Supplier and whether at common law, under tort (including negligence), in equity, pursuant to statute or otherwise, in respect of any loss, death, injury, illness or damage (whether personal or property, and whether direct or consequential, including consequential financial loss) arising out of:

a. breach of the Supplier's warranties or obligations contained in this Contract;

b. the failure of any Personnel of the Supplier to use reasonable care in carrying out the Supplier's obligations under this Contract; or

c. the death of or personal injury to persons or property damage, or the breach of Intellectual Property rights of any person, arising out of reliance on the Services or the use or commercial exploitation of the Deliverables or New Intellectual Property, and from and against all damages, reasonable costs and expenses incurred in defending, satisfying or settling any such action, claim, proceeding or demand.

3. Charges and payment

Charges & invoices

3.1 The Charges are the total maximum amount payable by the Buyer to the Supplier for delivery of the Services. Charges include Fees and, where agreed, Expenses and Daily Allowances.

3.2 The Supplier must provide valid tax invoices for all Charges on the dates or at the times specified in Schedule 1. The Buyer has no obligation to pay the Charges set out on an invoice, which is not a valid tax invoice. A valid a tax invoice must:

a. clearly show all GST due

b. be in Samoan currency or the currency stated in Schedule 1

c. be clearly marked 'Tax invoice'

d. contain the Supplier's name, address and GST number, if the Supplier is registered for GST

e. contain the Buyer’s name and address and be marked for the attention of the Buyer's Contract Manager or such other person stated in Schedule 1

f. state the date the invoice was issued

g. name this Contract and provide a description of the Services supplied, including the amount of time spent in the delivery of the Services if payment is based on an Hourly Fee Rate or Daily Fee Rate

h. contain the Buyer's contract reference or purchase order number if there is one

i. state the Charges due, calculated correctly, and

j. be supported by GST receipts if Expenses are claimed and any other verifying documentation reasonably requested by the Buyer.

Payment

3.3 If the Buyer receives a valid tax invoice on or before the 3rd Business Day of the month, the Buyer must pay that tax invoice by the 20th calendar day of that month. Any valid tax invoice received after the 3rd Business Day of the month will be paid by the Buyer on the 20th calendar day of the month following the month it is received. The Buyer's obligation to pay is subject to clauses 3.2, 3.4 and 11.10.

3.4 If the Buyer disputes a tax invoice or any part of a tax invoice that complies with clause 3.2, the Buyer must notify the Supplier within 10 Business Days of the date of receipt of the tax invoice. The Buyer must pay the portion of the tax invoice that is not in dispute. The Buyer may withhold payment of the disputed portion until the dispute is resolved.

3.5 Unless otherwise agreed with the Supplier, the Buyer shall remit payment of the Contract Price by electronic transfer. The Supplier shall provide the Buyer with the Supplier's bank details such as, but not limited to account name, account number, bank name, bank branch, country address, and swift code on its invoices or request for payment.

4. Contract management

Contract Manager

4.1 The persons named in Schedule 1 as the Contract Managers are responsible for managing the Contract, including:

a. managing the relationship between the Parties

b. overseeing the effective implementation of this Contract, and

c. acting as a first point of contact for any issues that arise.

Changing the Contract Manager

4.2 If a Party changes its Contract Manager it must tell the other Party, in writing, the name and contact details of the replacement within 5 Business Days of the change.

5. Information management

Information and Records

5.1 The Supplier must:

a. keep and maintain Records in accordance with prudent business practice and all applicable laws

b. make sure the Records clearly identify all relevant time and Expenses incurred in providing the Services

c. make sure the Records are easy to access, and

d. keep the Records safe.

5.2 The Supplier must give information to the Buyer relating to the Services that the Buyer reasonably requests. All information provided by the Supplier must be in a format that is usable by the Buyer, and delivered within a reasonable time of the request.

5.3 The Supplier must co-operate with the Buyer to provide information immediately if the information is required by the Buyer to comply with an enquiry or its statutory, parliamentary, or other reporting obligations.

5.4 The Supplier must make its Records available to the Buyer during the term of the Contract and for 7 years after the End Date (unless already provided to the Buyer earlier).

5.5 The Supplier must make sure that Records provided by the Buyer or created for the Buyer, are securely managed and securely destroyed on their disposal.

Reports

5.6 The Supplier must prepare and give to the Buyer the reports stated in Schedule 1, by the due dates stated in Schedule 1.

6. The contractual relationship

Independent Supplier

6.1 Nothing in this Contract constitutes a legal relationship between the Parties of partnership, joint venture, agency, or employment. The Supplier is responsible for the liability of its own, and its Personnel's, salary, wages, holiday or redundancy payments and any GST, corporate, personal and withholding taxes, accident compensation premiums or other levies attributable to the Supplier's business or the engagement of its Personnel.

Neither Party can represent the other

6.2 Neither Party has authority to bind or represent the other Party in any way or for any purpose.

Permission to transfer rights or obligations

6.3 The Supplier may transfer any of its rights or obligations under this Contract only if it has the Buyer's prior written approval. The Buyer will not unreasonably withhold its approval.

7. Subcontractors

Rules about subcontracting

7.1 The Supplier must not enter into a contract with someone else to deliver any part of the Services without the Buyer's prior written approval. In selecting an appropriate Subcontractor the Supplier must be able to demonstrate value for money.

The Supplier's responsibilities

7.2 The Supplier is responsible for ensuring the suitability of any Subcontractor and the Subcontractor's capability and capacity to deliver that aspect of the Services being subcontracted.

7.3 The Supplier must ensure that:

a. each Subcontractor is fully aware of the Supplier's obligations under this Contract, and

b. any subcontract it enters into is on terms that are consistent with this Contract.

7.4 The Supplier continues to be responsible for delivering the Services under this Contract even if aspects of the Services are subcontracted.

8. Insurance

8.1 It is the Supplier's responsibility to ensure its risks of doing business are adequately covered. As stated in Schedule 1, the Supplier must have the insurance specified therein and the Supplier must:

a. take out insurance, with a reputable insurer, and maintain that insurance cover for the term of this Contract and for a period of 3 years after the End Date, and

b. within 10 Business Days of a request from the Buyer provide a certificate confirming the nature of the insurance cover and proving that each policy is current.

9. Conflicts of Interest

Avoiding Conflicts of Interest

9.1 The Supplier warrants that as at the Start Date, it has no Conflict of Interest in providing the Services or entering into this Contract.

9.2 The Supplier must do its best to avoid situations that may lead to a Conflict of Interest arising.

Obligation to tell the Buyer

9.3 The Supplier must tell the Buyer immediately, and in writing, if any Conflict of Interest arises in relation to the Services or this Contract. If a Conflict of Interest does arise the Parties must discuss, agree and record in writing whether it can be managed and, if so, how it will be managed. Each Party must pay its own costs in relation to managing a Conflict of Interest.

10. Resolving disputes

Steps to resolving disputes

10.1 The Parties agree to use their best endeavours to resolve any dispute or difference that may arise under this Contract. The following process will apply to disputes:

a. a Party must notify the other if it considers a matter is in dispute

b. the Contract Managers will attempt to resolve the dispute through direct negotiation

c. if the Contract Managers have not resolved the dispute within 10 Business Days of notification, they will refer it to the Parties' senior managers for resolution, and

d. if the senior managers have not resolved the dispute within 10 Business Days of it being referred to them, the Parties shall refer the dispute to mediation.

10.2 If a dispute is referred to mediation, the mediation will be conducted by a single mediator agreed by the Parties.

10.3 Each Party will pay its own costs of mediation under this clause 10.

Obligations during a dispute

10.4 If there is a dispute, each Party will continue to perform its obligations under this Contract as far as practical given the nature of the dispute.

11. Ending this Contract

Termination by the Supplier

11.1 The Supplier may terminate this Contract by giving 20 Business Days Notice to the Buyer, if the Buyer fails to pay Charges that are properly due, and are not in dispute under clause 3.4. The Charges must be overdue by 20 Business Days and the Supplier must have first brought this to the Buyer's attention in writing within this period.

11.2 At any time during the term of this Contract the Supplier may notify the Buyer that it wishes to terminate this Contact by giving 20 Business Days Notice. The Buyer will, within 20 Business Days following receipt of the Supplier's Notice, notify the Supplier whether, in its absolute discretion, it consents to the Supplier's Notice of termination. If the Buyer:

a. consents, the Contract will be terminated on a date that is mutually agreed between the Parties, or

b. does not consent, the Contract will continue in full force as if the Supplier's Notice of termination had not been given.

11.3 The Supplier may also terminate this Contract under clause 11.9.

Termination by the Buyer

11.4 The Buyer may terminate this Contract at any time by giving 20 Business Days Notice to the Supplier.

11.5 The Buyer may terminate this Contract immediately, by giving Notice, if the Supplier:

a. becomes bankrupt or insolvent

b. has an administrator, receiver, liquidator, statutory manager, mortgagee's or chargee's agent appointed

c. becomes subject to any form of external administration

d. ceases for any reason to continue in business or to deliver the Services

e. is unable to deliver the Services for a period of 20 Business Days or more due to an Extraordinary Event

f. requires the supply of Services within the period of an Extraordinary Event

g. is in breach of any of its obligations under this Contract and the breach cannot be remedied

h. repeatedly fails to perform or comply with its obligations under this Contract whether those obligations are minor or significant

i. does something or fails to do something that, in the Buyer's opinion, results in damage to the Buyer's reputation or business

j. has a Conflict of Interest that in the Buyer's opinion is so material as to impact adversely on the delivery of the Services or the Buyer, or

k. provides information to the Buyer that is misleading or inaccurate in any material respect.

Termination by a Party if a breach has not been remedied

11.6 If a Party fails to meet the requirements of this Contract (defaulting Party) and the other Party (non-defaulting Party) reasonably believes that the failure can be remedied, the non-defaulting Party must give a Notice (default Notice) to the defaulting Party.

11.7 A default Notice must state:

a. the nature of the failure

b. what is required to remedy it, and

c. the time and date by which it must be remedied.

11.8 The period allowed to remedy the failure must be reasonable given the nature of the failure.

11.9 If the defaulting Party does not remedy the failure as required by the default Notice, the non-defaulting Party may terminate this Contract immediately by giving a further Notice.

11.10 If the Buyer gives a default Notice to the Supplier, the Buyer may also do one or both of the following things:

a. withhold any payment of Fees due until the failure is remedied as required by the default Notice, and or

b. if the failure is not remedied as required by the default Notice, deduct a reasonable amount from any Fees due to reflect the reduced value of the Services to the Buyer.

Supplier's obligations on termination or expiry of this Contract

11.11 On giving or receiving a Notice of termination, the Supplier must:

a. stop providing the Services

b. comply with any conditions contained in the Notice, and

c. immediately do everything reasonably possible to reduce its losses, costs and expenses arising from the termination of this Contract.

11.12 On termination or expiry of this Contract, the Supplier must, if requested by the Buyer, immediately return or securely destroy all Confidential Information and other material or property belonging to the Buyer.

Consequences of termination or expiry of this Contract

11.13 The termination or expiry of this Contract does not affect those rights of each Party which:

a. accrued prior to the time of termination or End Date, or

b. relate to any breach or failure to perform an obligation under this Contract that arose prior to the time of termination or End Date.

11.14 If this Contract is terminated the Buyer:

a. will only be liable to pay Charges that were due for Services delivered before the effective date of termination, and

b. may recover from the Supplier or set off against sums due to the Supplier, any Charges paid in advance that have not been incurred.

Handing over the Services on termination or expiry of this Contract

11.15 The Supplier will, within 10 Business Days of the End Date, provide all reasonable assistance and cooperation necessary to facilitate a smooth handover of the Services to the Buyer or any person appointed by the Buyer.

11.16 If the Parties agree, the Supplier will provide additional assistance to support any replacement supplier to deliver the Services. This support may be for a period of up to 3 months from the date of termination and at a reasonable fee to be agreed between the Parties, based on the Fees and Expenses stated in this Contract.

12. Intellectual Property Rights

Ownership of Intellectual Property Rights

12.1 Pre-existing Intellectual Property Rights remain the property of their current owner.

12.2 New Intellectual Property Rights in the Deliverables become the property of the Buyer when they are created.

12.3 The Supplier grants to the Buyer a perpetual, non-exclusive, worldwide and royalty-free licence to use, for any purpose, all Intellectual Property Rights in the Deliverables that are not owned by the Buyer. This licence includes the right to use, copy, modify and distribute the Deliverables.

Supplier indemnity

12.4 The Supplier warrants that it is legally entitled to do the things stated in clause 12.3 with the Intellectual Property Rights in the Deliverables.

12.5 The Supplier warrants that Pre-existing and New Intellectual Property Rights provided by the Supplier and incorporated in the Services and Deliverables do not infringe the Intellectual Property Rights of any third party.

12.6 The Supplier indemnifies the Buyer in respect of any expenses, damage or liability incurred by the Buyer in connection with any third party claim that the delivery of the Services or Deliverables to the Buyer or the Buyer's use of them, infringes a third party's rights. This indemnity is not subject to any limitation or cap on liability that may be stated elsewhere in this Contract.

13. Confidential Information

Protection of Confidential Information

13.1 Each Party confirms that it has adequate security measures to safeguard the other Party's Confidential Information from unauthorised access or use by third parties, and

that it will not use or disclose the other Party's Confidential Information to any person or organisation other than:

a. to the extent that use or disclosure is necessary for the purposes of providing the Deliverables or Services or in the case of the Buyer using the Deliverables or Services

b. if the other Party gives prior written approval to the use or disclosure

c. if the use or disclosure is required by law, Ministers or parliamentary convention, or

d. in relation to disclosure, if the information has already become public, other than through a breach of the obligation of confidentiality by one of the Parties.

Obligation to inform staff

13.2 Each Party will ensure that its Personnel:

a. are aware of the confidentiality obligations in this Contract, and

b. do not use or disclose any of the other Party's Confidential Information except as allowed by this Contract.

14. Notices

Delivery of Notices

14.1 All Notices to a Party must be delivered by hand or sent by post, courier, fax or email to that Party's address for Notices stated in Schedule 1.

14.2 Notices must be signed or in the case of email sent by the appropriate manager or person having authority to do so.

Receipt of Notices

14.3 A Notice will be considered to be received:

a. if delivered by hand, on the date it is delivered

b. if sent by post within Samoa, on the 3rd Business Day after the date it was sent

c. if sent by post internationally, on the 7th Business Day after the date it was sent

d. if sent by courier, on the date it is delivered

e. if sent by fax, on the sender receiving a fax machine report that it has been successfully sent, or

f. if sent by email, at the time the email enters the recipient's information system as evidenced by a delivery receipt requested by the sender and it is not returned undelivered or as an error.

14.4 A Notice received after 5pm on a Business Day or on a day that is not a Business Day will be considered to be received on the next Business Day.

15. Extraordinary Events

No fault if failure due to an Extraordinary Event

15.1 Neither Party will be liable to the other for any failure to perform its obligations under this Contract where the failure is due to an Extraordinary Event.

Obligations of the affected Party

15.2 A Party who wishes to claim suspension of its obligations due to an Extraordinary Event must notify the other Party as soon as reasonably possible. The Notice must state:

a. the nature of the circumstances giving rise to the Extraordinary Event

b. the extent of that Party's inability to perform under this Contract

c. the likely duration of that non-performance, and

d. what steps are being taken to minimise the impact of the Extraordinary Event on the delivery of Services.

Alternative arrangements requiring immediate termination

15.3 If the Buyer, acting reasonably, requires the Services to be supplied during the period affected by an Extraordinary Event, then despite clause 15.4, the Buyer may terminate this Contract immediately by giving Notice.

Termination of Contract

15.4 If a Party is unable to perform any obligations under this Contract for 20 Business Days or more due to an Extraordinary Event, the other Party may terminate this Contract immediately by giving Notice.

16. General

Changes to this Contract

16.1 Any change to this Contract is called an Amendment. An Amendment must be agreed by both Parties and recorded:

a. in writing and signed by both Parties, or

b. through an exchange of emails where the authors have delegated authority to approve the Amendment.

This is the entire Contract

16.2 This Contract, including any Amendment, records everything agreed between the Parties relating to the Services. It replaces any previous communications, negotiations, arrangements or agreements that the Parties had with each other relating to the Services before this Contract was signed, whether they were verbal or in writing.

Waiver

16.3 If a Party breaches this Contract and the other Party does not immediately enforce its rights resulting from the breach that:

a. does not mean that the Party in breach is released or excused from its obligation to perform the obligation at the time or in the future, and

b. does not prevent the other Party from exercising its rights resulting from the breach at a later time.

Samoan law, currency and time

16.4 This Contract will be governed and interpreted in accordance with the laws of Samoa. All money is in USD dollars, unless Schedule 1 specifies a different currency. Dates and times are Samoan time.

Publication of information about this Contract

16.5 The Supplier may disclose the existence of this Contract but must obtain the Buyer's prior written approval before making reference to the Buyer or this Contract in its publications, public statements, promotional material or promotional activities about this Contract.

16.6 Each Party undertakes not to post on websites or social networking sites and not to publicly display objectionable or derogatory comments about the Services, this Contract, each other or any of its Personnel and to ensure that its Personnel do not do so.

Signing the Contract

16.7 The date of execution is date this Contract is signed. This Contract is properly signed if each Party signs the same copy, or separate identical copies, of Page 1. If this Contract is signed on two separate dates or separate copies are signed, the date of execution is the later of the two dates. Where separate copies are signed the signed copy can be the original document, or a faxed or emailed copy.

No poaching

16.8 During the term of this Contract and for a period of 6 months after the End Date neither Party shall, without the other's written consent, deliberately solicit for employment or hire any person who is or has been employed by the other and involved in the delivery of the Services. This does not apply where a person has responded to a legitimate advertisement.

Clauses that remain in force

16.9 The clauses that by their nature should remain in force on expiry or termination of this Contract do so, including clauses 5 (Information management), 8 (Insurance), 10 (Resolving disputes), 11 (Ending this Contract), 12 (Intellectual Property Rights), 13 (Confidential Information), 16 (General) and 17 (Definitions).

Precedence

16.10 If there is any conflict or difference between the documents forming this Contract (as stated on Page 1) then the order of precedence is:

a. an Amendment agreed between the Parties under clause 16.1

b. Schedule 1

c. any Attachment to Schedule 1

d. Schedule 2.

Privileges and Immunities

16.11 Nothing in or relating to this Contract shall be deemed a waiver of any privileges and immunities of SPREP.

17. Definitions

17.1 When used in this Contract the following terms have the meaning beside them:

Amendment A change to any aspect of this Contract that complies with clause 16.1.

Attachment Any supplementary document named in Schedule 1 as an Attachment to this Contract.

Approved Personnel A person who is engaged by the Supplier to deliver the Services and is named in Schedule 1. The Supplier must use this person in the delivery of the Services and cannot change them without first obtaining the Buyer's written approval.

Business Day A day when most businesses are open for business in Samoa. It excludes Saturday, Sunday, and public holidays. A Business Day starts at 8.30am and ends at 5pm.

Buyer The Buyer is the purchaser of the Services and is named as the Buyer on page 1 of this Contract for the purposes of this Contract.

Charges The total amount payable by the Buyer to the Supplier as stated in Schedule 1. The Supplier's Charges include Fees and any Expenses and Daily Allowances stated in Schedule 1. Charges are payable on successful delivery of the Services provided a valid tax invoice has been submitted.

Confidential Information Information that:

a. is by its nature confidential

b. is marked by either Party as 'confidential', 'in confidence', 'restricted' or 'commercial in confidence'

c. is provided by either Party or a third party 'in confidence'

d. either Party knows or ought to know is confidential, or

e. is of a sensitive nature or commercially sensitive to either Party.

Information cannot be marked or designated as "confidential" if it is: (i) publicly available, (ii) rightfully known by the Supplier before disclosure by the Buyer or rightfully known by the Buyer before disclosure by the Supplier, or (iii) independently created or obtained by the Supplier or by the Buyer without reference or access to each other's Confidential Information.

Conflict of Interest A Conflict of Interest arises if a Party or its Personnel's personal or business interests or obligations do or could conflict or be perceived to conflict with its obligations under this Contract. It means that its independence, objectivity or impartiality can be called into question. A Conflict of Interest may be:

a. actual: where the conflict currently exists

b. potential: where the conflict is about to happen or could happen, or

c. perceived: where other people may reasonably think that a person is compromised.

Contract The legal agreement between the Buyer and the Supplier that comprises Page 1 (the front sheet), Schedule 1, this Schedule 2, any other Schedule, and any Amendment and Attachment.

Contract Manager The person named in Schedule 1 as the Contract Manager. Their responsibilities are listed in clause 4.1

Daily Allowance An allowance to cover accommodation, meals and incidentals for the Supplier's Personnel if they are required, in order to deliver the Services or to travel

overnight away from their normal place of business. The amount of any Daily Allowance must be agreed to in Schedule 1. A Daily Allowance is similar to a per diem.

Daily Fee Rate If the Supplier's fee rate is expressed as a Daily Fee Rate this is the fee payable for each day spent in the delivery of Services. A day is a minimum of 8 working hours.

Deliverables A tangible output resulting from the delivery of the Services as stated in Schedule 1. A deliverable may be a document, a piece of equipment, goods, information or data stored by any means including all copies and extracts of the same.

End Date The earlier of the date this Contract is due to end as stated in Schedule 1, the date of termination as set out in a Notice of termination or any other date agreed between the Parties as the date the Contract is to end.

Expenses Any actual and reasonable out-of-pocket costs incurred by the Supplier in the delivery of the Services and agreed to in Schedule 1.

Extraordinary Event An event that is beyond the reasonable control of the Party immediately affected by the event. An Extraordinary Event does not include any risk or event that the Party claiming could have prevented or overcome by taking reasonable care. Examples include:

a. acts of God, lightning strikes, earthquakes, tsunamis, volcanic eruptions, floods, storms, explosions, fires, pandemics and any natural disaster

b. acts of war (whether declared or not), invasion, actions of foreign enemies, military mobilisation, requisition or embargo

c. acts of public enemies, terrorism, riots, civil commotion, malicious damage, sabotage, rebellion, insurrection, revolution or military usurped power or civil war, or

d. contamination by radioactivity from nuclear substances or germ warfare or any other such hazardous properties.

Fees The amount payable to the Supplier for the time spent in delivery of the Services calculated on the basis stated in Schedule 1, excluding any Expenses and Daily Allowances.

GST The goods and services tax payable in accordance with the relevant legislation of either the buyer or supplier as the case may be.

Hourly Fee Rate If the Supplier's fee rate is expressed as an Hourly Fee Rate this is the Fee payable for each hour spent delivering the Services.

Intellectual Property Rights All Intellectual Property Rights and interests, including copyright, trademarks, designs, patents and other proprietary rights, recognised or protected by law.

Milestone A phase or stage in the delivery of Services resulting in a measurable output. Payment of Fees is usually due on the satisfactory delivery of a Milestone.

New Intellectual Property Rights Intellectual Property Rights developed after the date of this Contract and incorporated into the Deliverables.

Notice A formal or legal communication from one Party to the other that meets the requirements of clause 14.

Party The Buyer and the Supplier are each a Party to this Contract, and together are the Parties.

Personnel All individuals engaged by either Party in relation to this Contract or the delivery of Services. Examples include: the owner of the business, its directors, employees, Subcontractors, agents, external consultants, specialists, technical support and co-opted or seconded staff. It includes Approved Personnel.

Pre-existing Intellectual Property Rights Intellectual Property Rights developed before the date of this Contract. It does not cover later modifications, adaptations or additions.

Records All information and data necessary for the management of this Contract and the delivery of Services. Records include, but are not limited to, reports, invoices, letters, emails, notes of meetings, photographs and other media recordings. Records can be hard copies or soft copies stored electronically.

Services All work, tasks and Deliverables, including those stated in Schedule 1, that the Supplier must perform and deliver under this Contract.

Schedule An attachment to this Contract with the title 'Schedule'.

Start Date The date when this Contract starts as stated in Schedule 1.

Subcontractor A person, business, company or organisation contracted by the Supplier to deliver or perform part of the Supplier's obligations under this Contract.

Supplier The person, business, company or organisation named as the Supplier on page 1. It includes its Personnel, successors, and permitted assignees.