



SPREP

Secretariat of the Pacific Regional
Environment Programme



10th Pacific Islands Conference

NATURE CONSERVATION AND PROTECTED AREAS

Nature Conservation Action for a Resilient Pacific

PARTNERSHIP AGREEMENT

Agreement to implement the Intra-ACP GCCA+ Pacific Adaptation to Climate Change and Resilience Building (PACRES) in Timor-Leste

between

The Secretariat of the Pacific Regional Environment Programme (SPREP)

and

**The National Directorate for Climate Change (NDCC), Secretary of State for Environment,
Timor-Leste**

(together, "the Parties")

Dear Mr Pinto

This Agreement with SPREP is in accordance with the following terms and conditions.

This Agreement is made under and is subject to the MOU between SPREP and the National Authorising Office, Government of Timor-Leste, signed in June 2020.

Interpretation

"Confidential Information" means any information (in any form) expressly marked or designated as "confidential" that NDCC discloses to SPREP or SPREP discloses to NDCC or which, by its nature, may reasonably be regarded as being sensitive or of commercial value to the disclosing Party. Information cannot be marked or designated as "confidential" if it is: (i) publicly available, (ii) rightfully known by NDCC before disclosure by SPREP or rightfully known by SPREP before disclosure by NDCC, or (iii) independently created or obtained by NDCC or by SPREP without reference or access to each other's Confidential Information.

"Deliverables" means completed work components or products (reports, outputs, and the like) as contained in the Terms of Reference.

"Director General" means the Director General of SPREP and includes "Officer-in-charge" and "Acting Director General".

"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 such as 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;
- d. nationalisation, government sanctions, travel bans, embargoes, labour disputes, strikes or lockouts;
- e. contamination by radioactivity from nuclear substances or germ warfare or any other such hazardous events.

"Intellectual Property" includes, but is not limited to, copyright (including future copyright and rights in the nature of, or analogous to, copyright), trademarks, trade names, designs, inventions (including



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patents), non-patentable processes and methods, Confidential Information, know-how and show-how, technical and other data or information, trade secrets, service marks, circuit layouts and the like.

"Services" means the work to be done under the Terms of Reference.

1. Terms of Reference for Services & Deliverables

The Terms of Reference are set out in the Attachment which forms part of this Agreement.

Deliverables are to be submitted to SPREP in accordance with the Terms of Reference.

2. Duration

- a) The work will commence as soon as the agreement is signed by both parties.
- b) The work will finish no later than 30 June 2022.

3. Remuneration

- a) The total value of this agreement is up to USD 82,900
- b) An initial payment of USD 24,870 (30%) will be made upon signing of this agreement. Included in this payment an amount of USD 6,700 for visibility and communications which is for budget tracking purposes and will be accounted for separately;
- c) A further payment of USD 33,160(40%) will be made upon receipt of a satisfactory progress report on implementation of deliverables and financial expenditure from NDCC after the first 4 months.
- d) A final payment of USD 24,870 (30%) will be made upon receipt of a satisfactory progress report on implementation of deliverables and financial expenditure after 12 months.
- e) Any funds not expended by NDCC by 30 June 2022 will be returned to SPREP.

4. Travel

Travel undertaken to project sites in implementation of this agreement are included in the value of the agreement. Details of costs and payments for travel will be included in quarterly reports for the period in which the travel is undertaken.

5. Status of Partners

The status of the Partners shall be as agencies of equal standing according to the spirit and tenor of the MOU.

6. Title Rights

- a) Other than material purchased by the NDCC from the NDCC's own funds, any material permanently obtained for the purpose of fulfilling this Agreement shall be the property of SPREP.
- b) Unless otherwise stated in this Agreement, intellectual property shall be the property of SPREP.
- c) Any intellectual property conceived during this agreement jointly by employees of NDCC and SPREP shall jointly belong to NDCC and SPREP.

7. Delay

NDCC must notify SPREP in writing as soon as NDCC becomes aware of circumstances (including any Dependency or an Extraordinary Event) which may give rise to delay together with



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an estimate of further time required for the completion of the Services and the Parties will consult in good faith as to how to proceed.

In event of any Dependency affecting NDCC's ability to provide the Services and notified under this clause, then the Parties will, as appropriate, also consult in good faith to agree an extension of time, variation to the Services and/or variation to the Remuneration accordingly.

Neither Party will be liable for a breach of its obligations under this Agreement to the extent that the performance of such obligations is prevented by an Extraordinary Event. If an Extraordinary Event affects a Party's ability to perform its obligations under this Agreement for a period of sixty (60) consecutive Business Days, then either Party may (subject to the cessation of the Extraordinary event) terminate this Agreement upon ten (10) Business Days' notice.

The Parties agree that the following are Dependencies under this Agreement:

- Travel restrictions or bans affecting ability to travel;
- The ability of NDCC to secure reasonable input from experts and identified stakeholders due to their inability to use video-conferencing facilities;
- Timely provision of all information, approvals and assistance by SPREP that NDCC reasonably requires to provide the Services.

8. Confidentiality

Unless otherwise stated in this Agreement or as otherwise agreed in writing by the Parties, neither Party will disclose or use in any way any Confidential Information except to the extent that disclosure or use of such Confidential Information is necessary to enable the Services to be performed.

9. Disclaimer

Each Party agrees that its staff shall not be liable to the other or any person claiming through the other for:

- a) payment of any income taxes or superannuation;
- b) loss arising through inadequate or no insurance cover whether for life, medical, travel, luggage, personal effects or otherwise;
- c) any other loss or damage arising indirectly under this Agreement and whether arising in contract, tort or otherwise, unless caused by a negligent act or omission.

10. Liability

- a) Each Party shall perform the Services with due professional care and skill.
- b) Each Party shall have full regard to the other's interests and not knowingly take any action that might adversely affect the other.
- c) Each Party uses the Deliverables at its own risk.
- d) Each Party shall make appropriate insurance or other arrangements for any liability it may incur in relation to this Agreement.

11. Termination

- a) Either Party may terminate this Agreement at any time by giving the other ten days' notice in writing of its intention to do so.
- b) Upon receipt of a notice to terminate:
 - (i) the Parties will take all action necessary to cancel outstanding commitments relating to the Services under this Agreement and will use their best efforts to honour their respective prior commitments.
 - (ii) Payments will be made for work satisfactorily completed up to the time of termination, up to the stated maximum.



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- c) NDCC will return all unexpended funds.
- d) Termination or expiry of this Agreement will not prejudice any rights or obligations of the Parties which exist, whether under this Agreement, at law or otherwise, prior to termination or expiry.
- e) Clauses 6, 8, 9, 10 and 11, and any other relevant provisions, will survive the termination or expiry of this Agreement.

12. Applicable Law

This Agreement shall be governed by the laws of Samoa.

13. Dispute resolution

The Parties shall cooperate to carry out their obligations in good faith and shall endeavour to resolve any disagreement in an amicable manner, including through use of mediation and conciliation processes.

14. Variation of Agreement

This Agreement may be varied by written agreement of the Parties.

15. Contract Manager

a) Dr Martin Sharp of SPREP and Mr. Augusto Manuel Pinto of NDCC as the Contract Managers are responsible for managing the Contract, including:

1. Managing the relationship between the Parties
2. Overseeing the effective implementation of this Contract
3. Act as a first point of contact for any issues that arise and,
4. Address and resolve any issues in a prompt manner.

b) Changing the Contract Manager

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.

16. Counterparts

This Agreement may be executed in any number of counterparts (including by facsimile or electronic copies) each of which, when taken together, will constitute one and the same document.

Should these terms and conditions be acceptable to you, please sign below, also initial each page of the Agreement and its attachment and return one copy of each to me.

Yours sincerely,


Kosi Latu
Director General
SPREP

Date:

5/8/2020


Augusto Manuel Pinto

Director of NDCC

Date:

06/08/2020