



# SPREP

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*The Pacific environment, sustaining our livelihoods and natural heritage in harmony with our cultures.*

## DELIVERY PARTNER AGREEMENT (AMENDMENT #1)

AP 3/28/2

APEC Centre for Climate Change  
12, Centum 7-ro  
Haeundae-gu Busan 48058  
Korea

**Agreement for the delivery of the Climate Information Services for Resilient  
Development Project**  
between

**The Secretariat of the Pacific Regional Environment Programme (SPREP)**  
and

**the APEC Climate Center (APCC)**  
(together, "the Parties")

This amendment to the Agreement dated 29<sup>th</sup> August 2018 with the Secretariat of the Pacific Regional Environment Programme (SPREP) in accordance with the following terms and conditions.

This **AGREEMENT AMENDMENT #1** (this "Agreement") is dated 18<sup>th</sup> February 2021  
between:

- **THE SECRETARIAT OF THE PACIFIC REGIONAL ENVIRONMENTAL PROGRAMME**, a non-profit intergovernmental regional organization, established pursuant to the Agreement Establishing the South Pacific Regional Environment Programme, dated 16 June 1993 and having its registered office at Avele Road, Vailima, Apia, Samoa ("**SPREP**", or the "**Accredited Entity**"); and
- **APEC CLIMATE CENTER (APCC)**, a non-profit organization located in the Republic of Korea established on 18 November 2005 that aims to enhance the socio-economic well-being of the Asia Pacific region by utilizing up-to-date scientific knowledge, applying innovative climate prediction techniques, and promoting application of climate information through various programs for capacity building and reducing climate risks in the region.

### Recitals

#### WHEREAS:

- a) SPREP and the Green Climate Fund ("GCF", or 'the Fund') entered into an Accreditation Master Agreement on 23 June 2016 (Attachment A), which became effective on 15 July 2016 (the "AMA"), which sets forth, amongst others, the general terms and conditions applicable the Accredited Entity being SPREP who as the GCF Accredited Entity has responsibility for coordinating the effective delivery of the project in compliance with the FAA.

- b) SPREP has entered into a Funded Activity Agreement (Annex A) dated 2 October 2017 (the "FAA") for implementation of the *Climate Information Services for Resilient Development Project in Vanuatu* ('the Project').
- c) SPREP, through its Climate Change Resilience Programme, is an Executing Entity for the Project, along with the Vanuatu Meteorology and Geohazards Division (VMGD) of the Ministry of Climate Change (MoCC), as is set out in the Executing Partner Agreement (EPA) between SPREP and MoCC dated 15 December 2017, for the joint delivery of the 'Project'.
- d) SPREP and APCC entered into a Memorandum of understanding signed 8 July 2016, which amongst other things has enabled SPREP to directly source APCC as a Delivery Partner to the project. As a Delivery Partner APCC will be required to deliver specified Project Activities as set out in this Agreement.
- e) The total GCF Grant amount to be made available to SPREP for delivery of the Project is USD \$18,106,905 (eighteen million one hundred and six thousand nine hundred and five US Dollars) as is detailed in the FAA.
- f) SPREP shall engage APCC to deliver specific Project Activities in accordance with the APCC Workplan and Activity Budget (Schedule 1 and Schedule 2).
- g) SPREP and the APCC 'The Parties' now wish to enter into this Agreement in order to set out the terms upon which they will cooperate and work to support delivery of the Project, including as set out in Schedule 1 and Schedule 2 of this Agreement.

### Interpretation

In addition to terms ascribed meaning in the Recitals, or as may be defined by the Clauses of this Agreement, the following terms are used throughout this Agreement including the Schedules

**"Activity Budget"** means the amount in United States Dollars that may be made available to APCC to support delivery of the Project Activities, as set out in the Activity Budget section in Schedule 1.

**"Agreement"** means this Delivery Partner Agreement between SPREP and APCC including its Schedules.

**"Client"** means the Green Climate Fund.

**"Completion Date"** means the 10 January 2022, upon which APCC shall finalize the delivery of all designated Activities.

**"Confidential Information"** means any information (in any form) expressly marked or designated as "confidential" that the Party discloses to SPREP or SPREP discloses to the Party, including on behalf of other Project Delivery Partners, 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 the Party before disclosure by SPREP or rightfully known by SPREP before disclosure by the Party, or (iii) independently created or obtained by the Party 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) to be generated as a result of the Project Activities to be undertaken.

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

**"Disbursement(s)"** means a disbursement of all or part of the grant made, or to be made, available by the Accredited Entity (SPREP) to APCC, upon receipt of a request for disbursement and pursuant to the terms and conditions set out in this Agreement.

**"Eligible Expenditure"** means any reasonable costs of goods or services required for the implementation of the Project to be financed with the GCF proceeds, in accordance with this Agreement and the FAA.

**"Funded Activities"** or "Project" shall have the meaning ascribed thereto in Recital (B).

**"GCF Grant"** or "Grant" means the total maximum available funds to be made available, or part thereof by the GCF for delivery of the Project.

**"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 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.

**"Party(ies)"** means the SPREP/or APCC as the case may be.

**"The Project"** means the *Climate Information Services for Resilient Development Project in Vanuatu* in its entirety or parts thereof, as defined by the Funded Activity Agreement.

**"Project Activity (ies)"** means the activities (or parts thereof) to be undertaken by APCC as outlined in Schedule 1: Project Workplan.

**"Project Delivery Partners"** include (but is not limited to):

- a) The Australian Bureau of Meteorology (BOM);
- b) The APEC Climate Centre (APCC)
- c) The Commonwealth Scientific and Industrial Research Organisation (CSIRO)

In the event of a conflict between:

- a) the terms and conditions in the Clauses of this Agreement and any relevant terms and conditions of the clauses of the GCF FAA (Annex A) the terms and conditions in the Clauses of this Agreement shall prevail;
- b) the terms and conditions in the clauses of this Agreement and the terms and conditions of any of its Schedules, the terms and conditions in the Clauses of the Agreement shall prevail;

Any references in this Agreement to "clause" or "schedule" or 'attachment' shall refer to a clause of or a Schedule or an Attachment to this Agreement, unless otherwise specified or context requires otherwise.

## **1. Background**

1.1. The Project Activities to be undertaken by APCC to be delivered are comprised of:

- Schedule 1 Project Implementation Workplan.
- Annex A to this Agreement being The Funded Activity Agreement, including its schedules.

1.2. Notwithstanding the terms of this Clause 1, the Project Activities are to be delivered by APCC in accordance with the Project Work Plan (Schedule 1), to be developed, updated and agreed by the Parties during the course of the Project, subject to endorsement by the Project Steering Committee.

1.3. In performing the duties required of this Agreement, APCC shall take all reasonable steps to cooperate with SPREP to help ensure its compliance with the terms and conditions of the FAA, including by ensuring the GCF Grant is used only for Eligible Expenditures.

1.4. In the event of a conflict between the terms and conditions in the clauses of this Agreement and the terms and conditions of any of its Schedules, the terms and conditions in the Clauses of the Agreement shall prevail.

## 2. Duration

- 2.1 This Agreement will be binding upon on the Parties execution of the Agreement and effective for the duration of the FAA between SPREP and the GCF, commencing from the 10th January 2018 and ending on 10 January 2022, unless terminated earlier in accordance with clause 16.
- 2.2 The duration of the Agreement may be amended upon written agreement by the Parties and is subject to the duration of the FAA.

## 3. Activities

- 3.1 APCC will deliver the Project Activities outlined in Schedule 1, using the allocated Activity Budget and Co-Finance, described in Table 1 below, and as further detailed in Schedule 2.

**Table 1. APCC Project Activity Budget**

Funding Source	2019	2020	2021	2022	Total
GCF Funds (USD)	241,080.00	315,870.00	356,430.00	234,980.00	1,148,360.00
Co-Financing (USD)	0	230,041.00	179,726.00	170,173.00	579,940.00
<b>Total</b>	<b>241,080.00</b>	<b>545,911.00</b>	<b>536,156.00</b>	<b>405,153.00</b>	<b>1,728,300.00</b>

- 3.2 The Activity Budget to be made available to APCC for delivery of the Project Activities is US\$1,148,360 (as per Table 1).
- 3.3 The Activity Budget includes US\$27,700 for the undertaking of workshops and trainings as specified in the Delivery Partner Project budget (Schedule 3). US\$20,775 will be managed by the SPREP Executing Entity Project Management Unit on behalf of APCC, to procure the services of in-country providers and suppliers to support the workshops. These funds will be the responsibility of the SPREP Executing Entity Project Management Unit to financially report upon at specified times requested by APCC, and as per the six-monthly financial progress reports.
- 3.4 The Project Activities to be undertaken, at the level of detail of the Project Work Plan, the manner in which they are delivered (including technical methodologies), and corresponding Activity Budget to be made available, may be adjusted upon agreement of the Parties and subject to Steering Committee Approval. Changes may be made (by mutual agreement), but are not limited to, account for new information, emerging priorities and changes in the Project environment or context or other reasons that may be determined.
- 3.5 Project Activities shall be undertaken, and corresponding Activity Budgets used by APCC in accordance with this Agreement and its schedules, and by association the Project Work Plan.
- 3.6 Upon agreement between SPREP and APCC, including as determined through the annual joint work plan/planning process and / or any Project Technical Working Group APCC may be provided additional funds to undertake additional technical and / or associated services in support of the Project.
- 3.7 Co-Financing**
- a) APCC shall contribute co-Financing for the Project to an amount equivalent to US\$579,940. Co-Financing may be in the form of (*inter alia*):
- i. Expert technical services employed in the delivery of the designated Project Activities in the form of a contribution to specified APCC project personnel salary overheads; and/or
  - ii. Other operational cost as may be agreed by the Parties and outlined in the Project Budget.
- b) APCC shall report on Co-Finance contributions to the Project on a bi-annual basis in the Six-Monthly Progress Report.
- c) APCC is not required to co-finance any additional funding provided as outlined in the Project Budget, unless further agreed by APCC in writing.

## **4. Funds**

### **4.1 Payment of Funds**

Subject to the satisfactory performance of the Funded Activities in accordance with this Agreement and clause 4.2, SPREP must pay the Funds to APCC in accordance with the Project Schedule (Schedule 4).

4.2 If the Client fails to pay the amounts contemplated by the FAA to SPREP at the times contemplated by the FAA or suspends the amounts, then the obligation on SPREP to pay the Funds under Clause 4.1 is deferred until such time as those amounts have been paid.

### **4.3 Invoicing**

(a) APCC must provide an invoice in US Dollars to SPREP for the Funds at the times specified in the Project Schedule (Schedule 4).

(b) Notwithstanding Clause 4.1, SPREP is not obliged to pay the Funds until receipt of a valid invoice which contains sufficient reasonable and specific details to enable the work to which the invoice applied to be identified.

### **4.4 Refund**

If SPREP determines at any time that the payment of Funds to APCC was used for expenditure that was not consistent with the obligations under this Agreement and FAA, APCC will immediately refund the amount specified to SPREP.

### **4.5 Unused Funds**

a) Unused funds from the GCF Grant disbursed to APCC, including any investment income associated therewith, for which no further disbursements, liabilities or costs are due to be made or paid by APCC (or any other entity involved in the relevant Project Activity) shall be returned by APCC to SPREP within 30 days or such period of time as SPREP may specify at its sole discretion at its first request, but unless an event of default as provided for in FAA Clause 15 has occurred, not more frequently than once a year.

b) Notwithstanding 4.1 above, where SPREP is scheduled to disburse additional funds to the APCC the amount of unused funds may be subtracted from the proceeding disbursement.

c) APCC shall maintain a record of any such unused funds and any investment income associated therewith and report them to SPREP. APCC shall impose similar refund requirements on its counterparties involved in the Project.

### **4.6 Reallocation of funds across Project Activities**

a) Any reallocation among the Funded Activity components described in Schedule 2 resulting in a variation of more than ten percent (10%) of the previously agreed Budget for the Activity from which the funds are to be reallocated, must be approved in writing by SPREP in advance.

## **5. Cooperation and Consultation**

5.1 The Project Activities to be delivered by APCC will complement and directly support SPREP's overall implementation of the Project. All Project Activities to be delivered by APCC shall be coordinated through the SPREP Project Manager and in accordance with the Joint Work Plan to be established by SPREP and VMGD in collaboration with the Project Delivery Partners and endorsed by the Project Steering Committee on an annual basis.

5.2 Subject to direction of the Project Steering Committee a Project Technical Working Group may be established by the Executing Entities (SPREP and VMGD), with a terms of reference, to consider and provide advice on various technical aspects of the Project and the Project Activities. APCC will be invited to participate in the Project Technical Working Group with other Project Delivery Partners and stakeholders as may be relevant and determined through the terms of reference.

5.3 The Parties shall further, and subject to advice of the Project Steering Committee and/or the Project Technical Working Group, take all reasonable steps to ensure technical and design standards and specifications are coordinated across the delivery of Activities to ensure the Project as a whole is effective and maximise outcomes for Vanuatu.

- 5.4 APCC will contribute to the effective delivery of the project by following established governance arrangements as well as any other processes; standards and protocols to be established for the Project as reasonably required.
- 5.5 Subject to agreed tasks and budget allocations as per Schedule 1 and 2 of this Agreement, APCC shall be invited to have at least one Observer participant for the Project Steering Committee that will meet once annually. Sitting fees will not be paid to the APCC, though costs of travel (flights and accommodation) for one participant shall be met by SPREP, subject to the availability of Project funds, as agreed by the Parties. SPREP shall make remote-participation arrangements (e.g. video-conferencing) available if agreed to by the Parties.
- 5.6 Subject to agreed tasks and budget allocations as per Schedule 1 and Schedule 2 of this Agreement, APCC will contribute and/or actively participate in any technical working groups to be established for the project.
- 5.7 The Parties, subject to direction/coordination from the Project Steering Committee, the Project Technical Working Group and/or the SPREP Project Manager, agree to cooperate with each other at all times, maintain close working relationships and share information with each other in order to achieve the objectives and outcomes of the Project. The primary, and first point of contact within SPREP will be the SPREP Project Manager. APCC will consult with the SPREP Project Manager during significant aspects of the planning design and delivery of the Activities.
- 5.8 The Parties shall determine and communicate to each other the persons appointed as having the authority and responsibility for the project execution activities on its behalf. Contact details for correspondence on substantive and technical matters as well as on administrative and financial matters shall be provided; any changes to these contact details shall be communicated in a timely manner.
- 5.9 Upon its discovery of any unexpected developments that could adversely impact the Project budget, schedule or results, a Party shall promptly notify the other Party of all pertinent information so the Parties can work together to efficiently remedy or manage the problem with minimal delay or harm to the Project.
- 5.10 Overall coordination for the delivery of the Project shall be through the SPREP Project Manager. All planning, preparation and delivery of Project Activities to be undertaken by APCC shall be in consultation with the SPREP Project Manager and in a manner consistent with the Joint Work Plan and associated advice of the Project Steering Committee and Project Technical Working Group
- 5.11 The SPREP Project Manager will, serve as the first point of contact for APCC's engagement with the VMGD and other Project Delivery Partners and other designated Project service providers with respect to delivery of the Annual Work Plan and APCC's Project Activities.
- 5.12 The Parties shall under direction and in a manner consistent Work Plan and associated advice of the Project Steering Committee and Project Technical Working Group cooperate in any public relations or publicity exercises, when such activity is deemed appropriate or useful including as may be established by project documentation to be developed through the project, such as the project communications and visibility plan.

## **6. Reporting Requirements**

### **6.1 APCC shall:**

- a) provide to SPREP all written reports on the progress of the Funded Activities in accordance with the Project Schedule outlined in Schedule 4, or as requested in writing by SPREP.
- b) Provide financial statements to SPREP regarding the use and distribution of the Funds in a manner consistent with accounting principles that are deemed acceptable to SPREP.
- c) Provide all assistance necessary regarding written or financial reports to enable SPREP to comply with the reporting obligations under the FAA.

### **6.2 APCC shall provide to SPREP the following Reports prepared in a form to be specified by SPREP or as may otherwise be agreed between the Parties:**

- a) **Financial Reports:** Within thirty (30) days of the end of each six-month reporting period (each period ending: 30 June and 31 December) during the term of this Agreement, APCC shall provide to SPREP a Six-monthly Financial Progress Report in a form specified and to the satisfaction of SPREP containing:
- i. Financial Report for the reporting period consisting of funded activity inflows and outflows
  - ii. A detailed expenditure report outlining expenditure against Activities
  - iii. A transaction listing / general ledger of all transactions
  - iv. Report against the Procurement Plan
- b) **Progress Reports:** Within thirty (30) days of the end of each six-month reporting period (each period ending: 30 June and 31 December) during the term of this Agreement, APCC shall provide to SPREP a Six-monthly Progress Report in a form specified and to the satisfaction of SPREP.

6.3 APCC shall provide to SPREP the Reports outlined in Clause 6.2, prepared in a form to be specified by SPREP or as may otherwise be agreed between the Parties. The Reports provided will be used by SPREP to prepare the requisite reporting to the GCF, as per the FAA. APCC will cooperate with and support SPREP to ensure timely submission of reports to the GCF

6.4 APCC shall provide to SPREP such other reports as SPREP may require in accordance with their own rules, policies or practices in relation to the Project, and any other reports as may reasonably be requested by SPREP or the Fund in order to enable it to assess the results and impacts of the Project and/or compliance with this Agreement.

6.5 Based on the reports submitted to SPREP, in the event of any undue or unjustifiable delays in implementation, SPREP may choose, upon consultation with APCC and taking into account outstanding liabilities, to adjust the Payment Schedule of this Agreement, suspend disbursements until further progress has been made in the implementation of the Project to SPREP's reasonable satisfaction or take such other action as may be required under the relevant FAA.

6.6 The costs to APCC of such provisions referred in Clause 6 of this Agreement will be incurred by APCC as part of the allocated Project Activity budget unless otherwise funded by SPREP.

## **7. Record Keeping**

7.1 APCC will ensure that:

- a) all documents related to this Agreement, including documents relating to APCC's Project Activities, are promptly furnished to SPREP and/or the GCF upon request, in such detail as they may reasonably request;
- b) documents are maintained adequately to record the progress of APCC's individual Project Activities (including its cost and the climate change adaptation and/or mitigation benefits to be derived from it);
- c) documents related to APCC's individual Project Activities, including records evidencing APCC's use of the Activity Budget under the Project, that may be reasonably needed to resolve any claims or audit inquiries, are retained until at least seven (7) years after the relevant reporting period, or such longer period required to monitor;
- d) the representatives of SPREP and the Fund shall be able to examine all records referred to above in the Record Keeping and Reporting section of this Agreement and shall be provided all such information concerning such records as they may from time to time reasonably request; and
- e) the information relating to Project required by the GCF Information Disclosure Policy (as has been provided by SPREP to APCC) is made publicly available in a timely fashion pursuant thereto.

7.2 APCC acknowledges that under the terms of the FAA and this Agreement the GCF or SPREP may, in its sole discretion, utilize a third-party agent to perform certain functions or activities on behalf of the GCF or SPREP, including but not limited to:

- a) conducting periodic reviews, ad hoc checks, or evaluations permitted under this Agreement (or any FAA);
- b) verifying the status of the Project Activities, use of the Grant, and compliance with the terms and conditions of this Agreement or relevant FAA;
- c) APCC and other parties involved in the Project shall cooperate fully with such third-party agents to permit them to carry out its activities. To this end, APCC shall, among other things;
- d) submit reports, and other information, documents or communications required under this Agreement to SPREP and or the GCF, through the third-party agent;
- e) permit or arrange for the third party agent, in consultation and coordination with SPREP and APCC, to perform ad hoc site visits and/or meet with and interview it's staff, consultants, contractors, or agents upon reasonable notice and at the reasonable times agreed to by APCC and the third party agent; and
- f) co-operate with any third-party agents in other ways that the GCF, or SPREP may reasonably specify).

## **8. Title Rights**

8.1 The following shall apply:

- a) Any Intellectual Property (IP) created of during a particular project solely by employees of APCC shall belong to APCC.
- b) Any IP created of during a particular project solely by employees of SPREP shall belong to SPREP.
- c) Any IP created of during a particular project jointly by employees of APCC and SPREP, or a third party engaged by SPREP for the purposes of the project, shall jointly belong to APCC and SPREP, and any other respective party as the case may be.
- d) Any equipment and assets permanently obtained using the GCF Grant for the purpose of fulfilling this Agreement shall be the property of SPREP (unless otherwise advised by SPREP).
- e) Each Party retains ownership of its background IP (that is IP that existed prior to the Execution of the Agreement and /or exists entirely independently of the Project) and will own any improvements to its Background IP.
- f) The Parties will maintain an IP register to record the creation of new IP and use of background IP in connection with this Agreement.
- g) Each Party grants to the other Party a non-exclusive, non-transferable, royalty-free license to use background IP made available for the purposes of the Project, to the extent necessary to carry out the Project in Accordance with this Agreement and to the extent that background IP is incorporated in the Deliverables, to use, reproduce, adapt and modify such IP, for the purpose for which they are provided.
- h) Each Party grants to the other Party a non-exclusive, non-transferable, royalty-free license (including a right to sublicense) to use the Project IP they own (whether solely or jointly) that is incorporated in the Deliverables, to use, reproduce, adapt and communicate that Project IP for research purposes (including funded research and publications).
- i) Each Party may publish scientific papers and journal articles in connection with the Project and its outcomes, provided that the publishing Party acknowledges any technical input of the other Party and the GCF Grant funding, and all such publications are otherwise compliant with relevant provisions of Project Communication Plan (to be agreed between the parties).
- j) Neither Party may use the other Party's name, logo or trademarks without consent from the other Party.

## 9. Delay

9.1 Each Party shall notify the other in writing as soon as any delay arises in delivery (scope / scale / timing) of the Project Activities / Deliverables together with an estimate of further time and a description of any other variations which may be required for the completion of the Project Activities/Deliverables in compliance with this Agreement. The process for managing such variations will be the responsibility of the designated Agreement Managers.

## 10. Covenants and Warranties

10.1 APCC covenants (to the extent applicable) that as from the Date of this Agreement, it:

- a) shall duly perform its obligations under this Agreement;
- b) shall cause the Project to be carried out with due diligence, efficiency and in conformity with sound administrative, technical, financial, business and development practices and in conformity with relevant industry and international standards in accordance with the terms and conditions of this Agreement;
- c) shall obtain, or cause any other entity involved in the Project to obtain, all necessary licenses, approvals and consents to implement, carry out or operate any Project Outcome and Activity, all of which are to be maintained in full force and effect;
- d) shall ensure that adequate provision is made for the insurance of any goods required for the Project against hazards in accordance with prudent industry practice in the Vanuatu. Any indemnity for such insurance shall be payable in a freely usable currency to replace or repair such goods;
- e) shall ensure that: (i) except as SPREP or as the Fund may otherwise agree, all equipment and assets purchased by APCC using the proceeds from the GCF Grant are used exclusively for the purposes of the Project, and all facilities relevant to the Project are at all times properly operated and maintained; and (ii) whenever applicable, competent and qualified consultants and contractors are employed to achieve the objectives of the Project;
- f) shall inform SPREP of any circumstances that may substantially interfere with the performance of its obligations under this Agreement, or with its management of any Activities, or otherwise jeopardize the achievements of the Project, providing detailed information thereof to SPREP for its information promptly upon becoming aware of such circumstance;
- g) shall immediately provide or cause to provide written notice to SPREP of any legitimate claims, investigations or proceedings which, if determined adversely, could reasonably be expected to result in a material adverse effect on the ability of APCC to perform any of its obligations under this Agreement;
- h) shall ensure that the Grant are not used, or contractually cause it to be used by any recipients, for any illegal or improper purposes (including bribery) contrary to this Agreement or any laws of Vanuatu in which the Project is to be implemented, including by applying its own rules, policies and procedures as necessary in order to comply with the GCF Interim Policy on Prohibited Practices (as has been provided by SPREP to the APCC, and may be updated from time to time) and shall contractually incorporate such provisions in agreements with third parties relating to the relevant Project Activity;
- i) shall warrant, and covenant, they have complied:
  - i. with all applicable anti-money laundering and counter-terrorism financing "know your customer", and other similar checks (as is prescribed meaning in the ASA) under all laws and regulations as the case may be, and that reflect international best fiduciary standards and practices in relation to the proposed Project; and
  - ii. with anti-bribery laws and any other laws applicable to itself or such other persons and entities, as the case may be, and undertakes, , that they shall not, directly or indirectly, in connection with the Project pay, offer, give, promise to pay or authorize the payment of, or solicit, receive or agree to receive, any monies or other things of value to or from anyone in order to obtain, influence, or reward any improper advantage;

- j) shall repay directly or, from other persons or entities involved, of any GCF Grant amount used by any of them for any illegal or improper purposes (including bribery) contrary to this Agreement, the FAA, AMA and the GCF Interim Policy on Prohibited Practices; and
- k) shall ensure compliance or cause compliance of the Project with all laws applicable to it.

10.2 APCC further represents and warrants that:

- a) On the Date of this Agreement and the date of each disbursement made by the Fund under this Agreement, there are no circumstances of which APCC is, or should reasonably have been, aware that may substantially interfere with the performance of APCC's obligations under this Agreement, or with the implementation of the Project, or otherwise jeopardize the achievements of any objectives, outcomes or outputs of the Project; and
- b) On the date of the first disbursement by SPREP under this Agreement and throughout the term of this Agreement, this Agreement remains fully in effect.

10.3 APCC covenants that as from the Effective Date of this Agreement it shall cooperate in SPREP's delivery of the Project Environmental and Social Management Plan and Gender Action Plan including by anticipating and reporting on any environmental and social risks and impacts arising from the Funded Activities

## **11. Confidentiality**

11.1 Unless otherwise agreed in writing by the Parties, neither Party will disclose to another Party or use in any way any Confidential Information except to the extent that disclosure or use of such Confidential Information is

- a) necessary to enable the Project Activities to be performed; or
- b) necessary to enable the Party to meet any statutory functions and obligations (including disclosures to its Minister and in response to a Parliamentary order or request); or
- c) to the extent required by law; and
- d) disclosed on a "needs to know" basis to its employees, officers and professional advisors (provided such disclosure is under similar confidential terms).

## **12. Disclaimer**

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

- a) payment of any income taxes or superannuation for the other Party's personnel;
- b) loss arising through the other Parties 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 of that Party.

## **13. Liability**

13.1 The following shall apply:

- 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. Neither Party will be responsible for the consequences of any third party using or relying on the specified Project Deliverables.
- d) Each Party shall make appropriate insurance or other arrangements for any liability it may incur in relation to this Agreement.

- e) APCC agrees to indemnify SPREP against any and all claims, demands, losses, causes of action, damage, lawsuits, judgements, including reasonable lawyer's fees and costs, arising from:
  - i. any negligent act or omission by APCC (including any of its personnel) in connection with this Agreement;
  - ii. any breach by APCC (including any of its personnel) of its Obligations under this Agreement;
  - iii. any unauthorized use or disclosure by APCC (including its personnel) of SPREP's Confidential Information held or controlled in connection with this Agreement;
  - iv. Intellectual property breaches by APCC in performing this Agreement.
- f) APCC's liability to indemnify SPREP under this clause 12(e) will be reduced proportionately to the extent that any act or omission by SPREP contributed to the damages, losses, costs, claims or liability incurred by SPREP.
- g) Neither Party will be response to the other Party for any special or consequential losses or damage (including loss of anticipated income or profits) arising under this Agreement.

#### **14. Termination**

14.1 Either Party may terminate this Agreement at any time by giving the other thirty days' notice in writing of its intention to do so.

- a) Upon receipt of a notice to terminate:
  - i. the Parties will take all action necessary to cancel outstanding commitments relating to 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.
- b) APCC will return all unexpended funds, or funds not otherwise already committed as part of implementation of the Project joint work plan within 30 Days of the final date of termination of this Agreement.
- c) 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.
- d) Clauses 13, 15, 16, 17 and 18, and any other relevant provisions, will survive the termination or expiry of this Agreement.

#### **15. Applicable Law**

15.1 This Agreement shall be governed by principles of Singapore law, and subject to the jurisdiction of Singaporean courts.

#### **16. Dispute resolution**

16.1 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 escalation to senior representatives of each Party where necessary and appropriate.

16.2 The Party claiming that a dispute, controversy or claim arising out of or relating to this Agreement, or the breach, termination or invalidity thereof exists must give the other Party written notice of such Dispute together with details of that dispute.

16.3 If the dispute is not resolved by good faith consultations within 60 days of issue of the notice of Dispute, the parties may turn to arbitration in Singapore (Applicable Law) or otherwise agreed upon by both parties to resolve the Dispute.

16.4 This clause 18 does not prevent either Party from seeking urgent interlocutory relief.

## **17. Variation of Agreement**

17.1 This Agreement may only be varied by written agreement of the Parties including:

- a) For reasons consistent with specified provisions under clause 10 (Delay) of this Agreement.
- b) if the terms and conditions in the Clauses of this Agreement are found to be materially inconsistent with any relevant terms and conditions of the clauses of the GCF FAA (Annex A).

## **18. Agreement Manager**

18.1 The Agreement Managers for this Agreement are responsible for managing the Agreement, including:

- a) Managing the relationship between the Parties.
- b) Overseeing the effective implementation of this Agreement.
- c) Act as a first point of contact, on behalf of the Parties for any issues that arise.
- d) Address and resolve any issues in a prompt manner.

18.2 The Agreement Managers for the Parties shall be:

- a) For SPREP:
  - Tagaloa Cooper-Halo, Director, Climate Change Resilience Programme.
- b) For APCC:
  - Dr, Jong Ahn Chun, Research Fellow

18.3 Changing the Agreement Manager

- a) If a Party changes its Agreement Manager it must tell the other Party, in writing, the name and contact details of the replacement within 5 business days of the change.

## **19. Counterparts**

19.1 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.

## **20. Other**

20.1 The terms of this Agreement override any contrary terms contained in any invoice, purchase order or other documentation issued by either APCC or SPREP in relation to the Project.

20.2 Neither Party may assign or novate the Agreement whether in whole or in part.

20.3 This Agreement does not create a relationship of employment, agency, joint venture or partnership between the Parties. A Party must not represent itself, and must ensure its personnel do not represent themselves, as being an employee, partner, joint venture or agent of the other party; or having any authority to act on behalf of the other Party or to bind the other Party to any course of action.

20.4 If any term of this Agreement is prohibited, void or unenforceable under any applicable law, it will be severed to the extent necessary to make this Agreement valid and enforceable. The severance of a term will not affect the validity or enforceability of the remaining terms of this Agreement.

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

Yours sincerely,



for  
—

Kosi Latu  
Director General  
SPREP



Won-Tae Kwon  
Executive Director  
APCC

Date: 18/2/2021

Date: 19/2/2021

**Schedule 1: Project Implementation Workplan**





## Schedule 2: Activity Budget



### Schedule 3: APCC Workshop Budget

Output	Activity	Sub-Activity	Lead / Recipient of Funds	Budget Account Description	Unit	# of Unit	Unit Cost	2020	2021	2022	Total Budget	Budget Notes
								GCF	GCF	GCF		
Output 1.2. Research, modelling and prediction to support CIS tools and uptake	Activity 1.2.6. Developing tailored Agro-met predictions for target cropping systems	Sub-activity 1.2.6.2: Collecting, modeling, analysis and reporting of agro-met data to determine optimal agriculture crop planning options	APCC	Workshop / Training / Conference	Event	1	11,000.00				-	A156
			APCC	Workshop / Training / Conference	Event	1	11,600.00	11,600.00			11,600.00	A156
		Sub-activity 1.2.6.3: Undertaking field trials and validation prior to incorporation into DSS delivery platforms, ground-truthing and outreach with target Next/End-Users	APCC	Workshop / Training / Conference	Event	1	11,600.00		11,600.00		11,600.00	A162
			APCC	Workshop / Training / Conference	Event	1	4,500.00			4,500.00	4,500.00	A167
		Sub-activity 1.2.6.4: Develop the crop-climate diary customised for agro-met data collection	APCC	Workshop / Training / Conference	Event	1	7,600.00				-	A175
<b>APCC WORKSHOP BUDGET</b>								<b>11,600.00</b>	<b>11,600.00</b>	<b>4,500.00</b>	<b>27,700.00</b>	

Output	Activity	Sub-Activity	Lead / Recipient of Funds	Budget Account Description	2020			2021			2022			TOTAL		Budget Notes	
					TOTAL	APCC	PMU	TOTAL	APCC	PMU	TOTAL	APCC	PMU	APCC	PMU		
Output 1.2. Research, modelling and prediction to support CIS tools and uptake	Activity 1.2.6. Developing tailored Agro-met predictions for target cropping systems	Sub-activity 1.2.6.2: Collecting, modeling, analysis and reporting of agro-met data to determine optimal agriculture crop planning options	APCC	Workshop / Training / Conference										-	-	A156	
			APCC	Workshop / Training / Conference	11,600.00	2,900.00	8,700.00							2,900.00	8,700.00	A156	
		Sub-activity 1.2.6.3: Undertaking field trials and validation prior to incorporation into DSS delivery platforms, ground-truthing and outreach with target Next/End-Users	APCC	Workshop / Training / Conference				11,600.00	2,900.00	8,700.00					2,900.00	8,700.00	A162
			APCC	Workshop / Training / Conference							4,500.00	1,125.00	3,375.00		1,125.00	3,375.00	A167
		Sub-activity 1.2.6.4: Develop the crop-climate diary customised for agro-met data collection	APCC	Workshop / Training / Conference										-	-	A175	
<b>APCC WORKSHOP BUDGET</b>					<b>11,600.00</b>	<b>2,900.00</b>	<b>8,700.00</b>	<b>11,600.00</b>	<b>2,900.00</b>	<b>8,700.00</b>	<b>4,500.00</b>	<b>1,125.00</b>	<b>3,375.00</b>	<b>5,325.00</b>	<b>10,725.00</b>		

#### Schedule 4: Milestone and Payment Schedule

Milestone #	Due Date	Milestone	Deliverable and Achievement Criteria	Payment (USD)	Payment % of budget
1	31 December 2018	Delivery Partner Agreement	Delivery Partner Agreement signed by both Parties	\$0	0%
2	30 September 2019	2019 Six-month Workplan	Submission and approval by the GCF of the 2019 six-month workplan	\$241,080	21%
3	31 July 2020	Six-month Progress and Financial Report	Submission and approval of the Six-month Progress and Financial Report for the period 1 January – 30 June 2020  Submission and approval of the forthcoming year's Annual Workplan and budget	\$216,300	19%
4	30 September 2020	Delivery Partner Agreement: Variation #1	Variation to the Delivery Partner Agreement outlining revised project workplan and budget, signed by both Parties	\$0	0%
5	31 January 2021	Six-month Progress and Financial Report	Submission and approval of the Six-month Progress and Financial Report for the period 1 July – 31 December 2020  Submission and approval of the forthcoming year's Annual Workplan and budget	\$349,490	31%
6	31 July 2021	Six-month Progress and Financial Report	Submission and approval of the Six-month Progress and Financial Report for the period 1 January – 30 June 2021	\$89,110	8%

7	31 January 2022	Six-month Progress and Financial Report	Submission and approval of the Six-month Progress and Financial Report for the period 1 July – 31 December 2021  Submission and approval of the forthcoming year's Annual Workplan and budget	\$231,605	21%
8	31 July 2022	Six-month Progress and Financial Report	Submission and approval of the Six-month Progress and Financial Report for the period 1 January – 30 June 2022	\$0	0%
<b>Total</b>				<b>\$1,127,585</b>	<b>100%</b>

**Note:** Milestone and payment schedule excludes the funding for workshops (\$20,775) to be managed by SPREP Executing Entity (PMU) on behalf of APCC

**Annex 1: Funded Activity Agreement (FAA)**