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FINANCING AGREEMENT

Dated November 18th, 2020

between

AGENCE FRANCAISE DE DEVELOPPEMENT

The Agency

and

THE SECRETARIAT OF THE PACIFIC REGIONAL ENVIRONMENT PROGRAMME

The Beneficiary



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FINANCING AGREEMENT

BETWEEN:

- (1) **THE SECRETARIAT OF THE PACIFIC REGIONAL ENVIRONMENT PROGRAMME**, an Intergovernmental Organisation, represented by Mr. Kosi LATU, in his capacity as Director General, who is duly authorized to sign this Agreement pursuant to SPREP Financial Regulations 2012 Regulation 2 and SPREP Agreement Article 6 and 7. (the “**Beneficiary**” or “**SPREP**”);

AND

- (2) **AGENCE FRANCAISE DE DEVELOPPEMENT**, a French public entity (*établissement public*) governed by French law, with registered office at 5, Rue Roland Barthes, 75598 Paris Cedex 12, France, registered with the Trade and Companies Register of Paris under number 775 665 599, represented by Mr. Philippe RENAULT, in his/her capacity as AFD Regional Director for Pacific, who is duly authorized to sign this Agreement,

(the “**Agency**”);

(hereinafter jointly referred to as the “**Parties**” and each a “**Party**”);

WHEREAS:

- (A) The Beneficiary intends to build capacity and support project design and implementation in the framework of sub-component B1 of the “Kiwa Initiative – Nature-based solutions for climate resilience” in the Pacific (the “**Project**”), as described further in Schedule 2 - (*Project Description*).
- (B) The Beneficiary has requested that the Agency makes available a Grant for the purposes of financing the Project in full.
- (C) The Agency has requested that the European Commission (hereinafter the “**Commission**”) finances the Project under the 11th European Development Fund. By its decision of 1.8.2019, the Commission has delegated its financial contribution in the Project to the Agency to this effect. Therefore, the Commission and the Agency have entered into a contribution agreement on April, 9th 2020 (the “**Contribution Agreement**”) in connection with the Project.
- (D) In addition, the Government of Australia represented by its Department of Foreign Affairs and Trade (“**DFAT**”), the Government of Canada represented by its Department of Foreign Affairs Trade and Development (“**DFATD**”) and the Government of New-Zealand represented by its Ministry of Foreign Affairs and Trade (“**MFAT**”) (hereinafter jointly referred to as the “**Contributors**”) wish to contribute together to the Project;
- (E) As requested by the Agency and subject to the appropriation decisions taken by the Parliament of Australia on September 20th 2018, the Parliament of New Zealand on May 30th 2019 and the Parliament of Canada for the relevant fiscal year, the Contributors have decided to make available financial contributions to the Agency for the purposes of financing the Project in part, pursuant to the terms and conditions of the contribution arrangements signed between each Contributor and the Agency on March 18th 2020 (with DFATD), on March 26th 2020 (with MFAT) and on March 30th 2020 (with DFAT) (jointly referred to as the “**Contribution Arrangements**” and each a “**Contribution Arrangement**”).
- (F) Pursuant to resolutions n°C20190760, C20190772, C20190774, C20190775, C20190835, C20190836 and C20190837 dated November 14th 2019 of the Board of Directors of the Agency, the Agency has agreed to make available the Grant to the Beneficiary pursuant to the terms and conditions of this Agreement.



IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

Capitalised words and expressions used in this Agreement (including those appearing in the recitals above and in the Schedules) shall have the meaning given to them in Schedule 1A - (*Definitions*), except as otherwise provided in this Agreement.

1.2 Interpretation

Words and expressions used in this Agreement shall be construed pursuant to the provisions of Schedule 1B - (*Construction*), subject to provisions to the contrary.

2. GRANT, PURPOSE AND CONDITIONS OF UTILISATION

2.1 Grant

Subject to the terms of this Agreement, the Agency makes available to the Beneficiary, based on its request, a Grant in a maximum aggregate amount of one million fifty thousand Euros (EUR 1 050 000).

2.2 Purpose

The Beneficiary shall apply : all amounts made available to it under this Grant exclusively towards financing Eligible Expenses for the implementation of the Project in accordance with Schedule 2 - (*Project Description*) and the Financing Plan set out in Schedule 3 - (*Financing Plan*), including Closing Expenses.

The Beneficiary undertakes not to unilaterally modify the main purpose of the Project as set out in Schedule 2 - (*Project Description*) of this Agreement, its objectives, strategies and priority areas and any other essential element stated in the above mentioned Schedule.

2.3 Monitoring

The Agency cannot be held responsible for the use of any amount made available to the Beneficiary which is not in accordance with the provisions of this Agreement.

The Beneficiary discharges the Agency of all liability in connection with any claim or action brought by any third party as a result of an infringement of regulations and rules applicable to the Beneficiary by the Beneficiary, its employees or individuals for whom it is responsible, or as a result of a violation of a third party's rights, in the context of the implementation of the Project.

2.4 Conditions precedent

- (a) No later than the Signing Date, the Beneficiary shall provide the Agency with all of the documents set out in PART I of Schedule 4 - (*Conditions Precedent*).
- (b) The Beneficiary shall be entitled to deliver a Drawdown request to the Agency if:
 - (i) in the case of a first Drawdown, the Agency has received all documents as listed in PART II of Schedule 4 - (*Conditions Precedent*) and has notified the Beneficiary that such documents are satisfactory in form and substance;
 - (ii) in the case of any subsequent Drawdown, the Agency has received all documents set out in PART III of Schedule 4 - (*Conditions Precedent*) and has notified the Beneficiary that such documents are satisfactory in form and substance; and



- (iii) on the date of the Drawdown request and on the proposed Drawdown date for the relevant Drawdown, the conditions set out in this Agreement have been fulfilled, including:
- (1) no event referred to in Clause 4 (*Postponement or Dismissal of the Drawdown Requests*) is continuing or may occur;
 - (2) each representation given by the Beneficiary in relation to Clause 5 (*Representations and warranties*) is true;
 - (3) the Agency has received the funds delegated by the European Union in accordance with the Contribution Agreement ; and
 - (4) the Agency has received the funds delegated by each of the Contributors in accordance with the Contribution Arrangements; and
 - (5) the previous Advance was used in accordance with this Agreement and the Drawdown request.

3. DRAWDOWN OF FUNDS

3.1 Drawdown request

Provided that the conditions set out in Clause 2.4 (*Conditions precedent*) are satisfied, the Beneficiary may draw funds from the Grant, in one or several Drawdowns, by delivery to the Agency of a duly completed Drawdown request as set out in Schedule 10 (Form of the Drawdown Request).

Each Drawdown request shall be delivered by the Beneficiary to the head of the Agency office at the address specified in Clause 10.1 (*Notices*).

A Drawdown request will not be regarded as having been duly completed unless all required documents are attached to the Drawdown request and comply with the provisions of Clause 3.2 (*Payment mechanics*). If all conditions set out in this Agreement are met, the Agency will transfer the requested Drawdown to the Beneficiary.

3.2 Payment mechanics

The funds will be made available in accordance with the following terms and conditions:

3.2.1 Renewable advances

Each Drawdown shall be made available by the Agency in the form of advances (an “**Advance(s)**”) paid into the Project Account (as defined below).

(a) Opening of the Project Account

The Beneficiary shall open and maintain an account in the name of the Project (the “**Project Account**”), with an Acceptable Bank (the “**Account Bank**”), for the sole purpose of (i) receipt of the proceeds of a Drawdown; and (ii) payment of the Eligible Expenses.

The Beneficiary hereby undertakes to waive and procure that the Account Bank waives, any right of set-off such party may have in respect of the Project Account and any other account opened in the name of the Beneficiary at the Account Bank, or against any other debt of the Beneficiary.

In the event that the Account Bank ceases to be an Acceptable Bank, the Agency may instruct the Beneficiary to replace the Account Bank with an Acceptable Bank. The Beneficiary hereby undertakes to replace the Account Bank promptly at its own expense immediately upon the Agency’s first demand and to execute a deed of pledge in favour of the Agency.



(b) First Advance

Provided that the conditions set out in Clause 2.4 (*Conditions precedent*) have been satisfied, the Agency shall pay a first Advance of five hundred thousand Euros (EUR 500 000) to the Project Account.

(c) Additional Advances

Additional Advances will be paid upon the Beneficiary's request, subject to the conditions set out in Clause 2.4 (*Conditions precedent*) being satisfied.

(d) Final Advance

The final Advance shall be paid in accordance with the same conditions as the other Advances and, if applicable, shall take into account any change in the financing plan of the Project, as agreed between the Parties.

(e) Justification for Use of Advances

The Beneficiary agrees to deliver to the Agency:

- (i) no later than the Deadline for Implementation of the Project, a certificate signed by an authorised signatory of the Beneficiary certifying that one hundred per cent (100%) of both the penultimate Advance and the final Advance have been used and providing a detailed breakdown of the sums paid in respect of the Eligible Expenses in the relevant period; and
- (ii) no later than three (3) months from the date of delivery of the certificate referred to in subparagraph (i), a final audit report of the Project Account (the "**Final Audit Report**"), carried out by an independent and reputable auditing firm which has been appointed by the Beneficiary, subject to the Agency's no-objection on the terms of reference of the audit mission. All audit costs shall be applied against the funds of the Grant. The Beneficiary shall ensure that the auditing firm verifies that all Advances made under the Grant and paid into the Project Account have been used in accordance with the terms and conditions of this Agreement.

(f) Applicable exchange rate

If any Eligible Expenses are denominated in a currency other than Euro, the Beneficiary shall convert the invoice amount into the equivalent amount in Euros using the Reuters screen exchange rate for the applicable currency on the payment date of the relevant Drawdown by the Agency.

(g) Deadline for use of funds

The Beneficiary agrees that all funds disbursed in the form of an Advance shall be used in full to finance Eligible Expenses no later than the Deadline for Implementation of the Project, provided however, for the avoidance of doubt, that funds which are used to finance Closing Expenses may be used after the Deadline for Implementation of the Project but prior to the delivery of the General Implementation Report pursuant to Clause 7.1(c) of the Agreement

(h) Control – audit

The Beneficiary agrees that the Project Account shall be audited on an annual basis until the Deadline for Implementation of the Project. These audits shall be carried out by an independent and reputable auditing firm, appointed by the Beneficiary subject to the Agency's no-objection on the terms of reference of the audit mission and the appointed auditing firm. All audit costs shall be applied against the funds of the Grant. The auditing firm shall verify that all Drawdowns/Advances



paid into the Project Account have been used in accordance with the terms of this Agreement. The audit shall include the verification that the procurement procedures used by the Beneficiary are compliant with provisions of this Agreement

The Beneficiary shall permit the auditing firm to have access to any documentation or person necessary to carry out its work. The Beneficiary shall with no delay provide such access to information or people as requested by the auditing firm.

The Beneficiary agrees that the final audit report may trigger investigation measures as provided in Clause 6.16 *Inspections* and/or remediation measures as provided in Clause 6.9 *Origin of funds, no Acts of Corruption, Fraud, Anti-Competitive Practices or Tax Avoidance Practices or Tax Fraud*.

Audit reports shall be made available no later than three (3) months following the end of each calendar year.

During the Drawdown Period, the Agency may carry out, or procure that a third party carries out on its behalf and at the expense of the Beneficiary, random inspections rather than systematic control of documentary evidence.

- (i) Failure to provide justification for the use of Advances by the Deadline for Implementation of the Project

The Agency may request that the Beneficiary reimburses all amounts in respect of which utilisation has not been duly or sufficiently justified, together with all other sums standing to the credit of the Project Account on the Deadline for Implementation of the Project. The Beneficiary shall reimburse such amounts to the Agency within twenty (20) calendar days of receipt of the Agency's notification in this respect.

- (j) Use of funds of an Advance after the Deadline for Implementation of the Project

The Beneficiary undertakes to reimburse, within twenty (20) calendar days upon request of the Agency, the funds of the Grant provided under an Advance which utilization has been made for expenses incurred in connection with any work and services carried out or provided after the Deadline for Implementation of the Project.

Notwithstanding the previous paragraph, the Beneficiary shall not reimburse the funds of the Grant provided under an Advance and which are used to finance Closing Expenses (having obtained by the Agency's non objection) during the period between the Deadline for Implementation of the Project and the delivery of the General Implementation Report.

- (k) Retention of documents

The Beneficiary shall retain the documentary evidence and other documents in connection with the Project Account and utilisation of the Advances for a period of seven (7) years from the Deadline for Drawdown.

The Beneficiary undertakes to deliver such documentary evidence and other documents to the Agency or to any auditing firm appointed by the Agency, upon the Agency's request.

3.3 Deadline for Drawdown

The final Drawdown request shall be received by the Agency no later than fifteen (15) calendar days before the Deadline for Drawdown. If such request is made during the month preceding the Deadline for Drawdown, it shall be addressed to the Agency and be sent by registered mail, requesting an acknowledgment of receipt.

Any part of the Grant that remains unpaid on such Deadline for Drawdown shall be automatically cancelled.



3.4 Closing Expenses

The Beneficiary undertakes to request a non-objection opinion from the Agency for all Closing Expenses which are financed according to Clause 3.3 (*Payment Mechanics*) of the Agreement.

4. POSTPONEMENT OR DISMISSAL OF THE DRAWDOWN REQUESTS

The Agency shall be entitled to suspend or postpone, or definitively dismiss any Drawdown request upon the occurrence of any of the following events:

(a) Project Documents

Any Project Document, or any right or obligation set out therein, ceases to be in full force and effect or is subject to a notice of termination or its validity, legality or enforceability is challenged.

(b) Misrepresentation

A representation made or warranty given by the Beneficiary in this Agreement, including under Clause 5 (*Representations and warranties*), or in any document delivered by or on behalf of the Beneficiary under or in relation to this Agreement, is incorrect or misleading when made or given, or deemed to be made or given.

(c) Undertakings and Obligations

The Beneficiary does not comply with any term of this Agreement, including, without limitation, any of the undertakings it has given pursuant to Clause 6 in particular Clause 6.13 (*Undertakings with respect to the delegation of funds by the European Union*) and Clause 7 (*Information Undertakings*).

(d) Unlawfulness

It is or becomes unlawful for the Beneficiary to perform any of its obligations under this Agreement.

It becomes unlawful for the Agency pursuant to its applicable law to perform any of its obligations as contemplated by this Agreement or to fund or maintain the Grant.

(e) Material adverse change

Any event (including a change in the political situation of the country of the Beneficiary) or any measure which is likely, according to the Agency's opinion, to have a Material Adverse Effect occurs or is likely to occur.

(f) Withdrawal or suspension of the Project

Any of the following occurs:

- the implementation of the Project is suspended or postponed for a period exceeding six (6) months; or
- the Project has not been completed in full by the Deadline for Implementation of the Project; or
- the Beneficiary withdraws from, or ceases to participate in the Project.

(g) Authorizations



(g) Authorizations

Any Authorization required for the Beneficiary in order to perform or comply with its obligations under this Agreement or its other material obligations under any Project Documents or required in the ordinary course of the Project is not obtained within the required timeframe or is cancelled or becomes invalid or otherwise ceases to be in full force and effect.

(h) Change in status of the Beneficiary

The Beneficiary is subject to any of the following:

- transfer in whole or in part or partial contribution of its assets which is likely to adversely affect the Beneficiary’s solvency or ability to implement the Project;
- merger, demerger, winding-up or dissolution, substantial change in or termination of business activities; and
- resolution of the Beneficiary’s competent body passed, judicial proceedings commenced or any other analogous step or procedure taken regarding the suspension of payments, a moratorium with any creditors or the liquidation, dissolution, administration, reorganisation or the restructuring of the Beneficiary or any similar procedure or arrangement.

(i) Suspension of payments under the Contribution Agreement

Any disbursement of the funds delegated by the European Union to the Agency under the Contribution Agreement is suspended for any reason whatsoever.

(j) Suspension of payments or reduction of contributions under the Contribution Arrangements

Any disbursement of the funds delegated by any Contributor to the Agency under the relevant Contribution Arrangement is suspended or the amount of the contribution of any Contributor to the Agency under the relevant Contribution Arrangement is reduced; in each case for any reason whatsoever.

(k) Force Majeure

A Force Majeure event has occurred and has an adverse effect on the implementation of all or part of the Project.

(l) Utilisation of the funds of the Grant in contradiction with the terms and conditions of this Agreement and the Project

The Beneficiary uses the funds of the Grant for a purpose other than the one agreed under the Agreement, or the funds of the Grant are unduly paid by the Beneficiary or are not properly used by its contractors.

(m) Termination or suspension of the Contribution Agreement

The Contribution Agreement is cancelled, terminated or suspended for any reason whatsoever.

(n) Termination or suspension of the Contribution Arrangements

A Contribution Arrangements is cancelled, terminated or suspended for any reason whatsoever.

(o) Intervention by an Authority

An Authority:



- decides to close, seize or expropriate all or part of the Project facilities or one or several of the Beneficiary’s assets which are required to continue its activities; or
- takes possession or control of all or part of the Project’s facilities or any of the Beneficiary’s assets which are required to continue its activities; or
- takes any measure with a view to the liquidation, winding-up, administration, reorganisation or restructuring of the Beneficiary; or
- takes any other measure that would prevent the Beneficiary from continuing all or part of its activities or operations.

5. REPRESENTATIONS AND WARRANTIES

All the representations and warranties set out in this Clause 5 (*Representations and warranties*) are made by the Beneficiary for the benefit of the Agency on the Signing Date. All the representations and warranties in this Clause 5 (*Representations and warranties*) are deemed to be made by the Beneficiary on each Drawdown Date.

5.1 Status

The Beneficiary is an international organization duly established and validly existing under the laws of its jurisdiction.

The Beneficiary has the power to own its assets and carry on its business as it is being conducted. The constitutional documents of the Beneficiary are in compliance with all applicable laws and regulations.

5.2 Power and authority

The Beneficiary has the power to enter into, perform and deliver this Agreement and Project Documents and to perform all contemplated obligations. The Beneficiary has taken all necessary action to authorise its entry into, performance and delivery of this Agreement and Project Documents and the activities funded by the Grant.

5.3 Binding Obligations

The obligations expressed to be assumed by the Beneficiary under this Agreement comply with all laws and regulations applicable to the Beneficiary in its jurisdiction of establishment and are legal, valid, binding and enforceable obligations which are effective in accordance with their written terms.

5.4 No conflict with other obligations of the Beneficiary

The entry into and performance by the Beneficiary of, and the obligations contemplated by this Agreement do not conflict with any domestic or foreign applicable law or regulation, its constitutional documents (or any similar documents) or any agreement or instrument binding upon the Beneficiary or affecting any of its assets.

5.5 Validity and admissibility in evidence

All Authorizations required:

- (a) to enable the Beneficiary to lawfully enter into, and exercise its rights and comply with its obligations under this Agreement and Project Documents; and
- (b) to make this Agreement and the Project Documents admissible in evidence in the courts of the jurisdiction of the Beneficiary,



have been obtained and are in full force and effect and no circumstances exist which could result in the revocation, non-renewal or modification, in whole or in part, of any such Authorizations.

5.6 Project Authorizations

All Project Authorizations have been obtained or effected and are in full force and effect and there are no circumstances which may result in any Project Authorization being revoked, cancelled, not renewed or varied in whole or in part.

5.7 Procurement

The Beneficiary declares that the Procurement Guidelines communicated to AFD are valid and in force.

5.8 Origin of funds, Acts of Corruption, Fraud, Anti-Competitive Practices, Tax Avoidance Practices and Tax Fraud

The Beneficiary represents and warrants that:

- (a) (i) its equity; and (ii) the funds invested in the Project are not of an Illicit Origin;
- (b) the Project is not structured in a way to contribute to Tax Avoidance Practices or Tax Fraud and does not involve any activities that contribute to Tax Avoidance Practices, or Tax Fraud; and
- (c) the Project (in particular, the negotiation, award and performance of any contracts which have been funded by the Grant) has not given rise to any Act of Corruption, Fraud or Anti-Competitive Practice.

5.9 Safety Plan

The Beneficiary declares having sufficient measures in place regarding security and risk management applicable to the activities in connection with the implementation of the Project.

6. UNDERTAKINGS

The undertakings in this Clause 6 (*Undertakings*) take effect on the Signing Date and remain in full force and effect for the duration of this Agreement.

6.1 Corporate existence

The Beneficiary shall maintain its corporate existence and the general nature of its business and shall not amend or alter its corporate existence, its registered office, its corporate objectives or the nature of its business without the prior consent of the Agency.

6.2 Authorizations

The Beneficiary shall promptly obtain, comply with and do all that is necessary to maintain in full force and effect any Authorization required under any applicable law or regulation to enable it to perform its obligations under this Agreement and to ensure the legality, validity, enforceability and admissibility in evidence of this Agreement or any Project Document.

6.3 Project Documents

The Beneficiary shall provide the Agency with a copy of any amendment to any Project Documents and shall not, and shall not agree to, make any material amendment to any Project Document without obtaining the Agency's prior consent.



6.4 Compliance with laws and regulations

The Beneficiary shall comply

- (a) in all respects with all relevant local and international laws and regulations to which it and/or the Project is subject, particularly in relation to publication of information encouraging tax transparency, as well as all applicable environmental protection, human rights, safety and labour laws including conventions of the International Labour Organization (“ILO”) and the international environmental conventions with respect to environmental protection which are not conflicting with applicable law of the relevant country;
- (b) with all of its obligations under the Project Documents.

6.5 Procurement

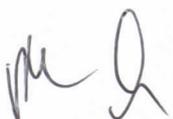
Procurement is the responsibility of the Beneficiary.

In the context of the procurement, execution and performance of contracts relating to the execution of a Project and financed under this Agreement, the Beneficiary undertakes:

- to implement and enforce its Procurement Guidelines and the applicable standard bidding documents;
- to inform AFD of any changes to its Procurement Guidelines;
- to request AFD’s non-objection on the Procurement Plan with respect to the Project specifying as a minimum, for each contract, the estimated amount, the type of competition, the procurement procedure, the selection method and the expected procurement timeline;
- to request AFD’s non-objection on the terms of reference for service procurement in the framework of the Project;
- for contracts exceeding 200 000€ (consulting services or goods) or 5 000 000€ (works), to publish procurement notices on (i) the Beneficiary’s website, (ii) AFD’s publication website <http://afd.dgmarket.com> and (iii) on websites of the country where the Project is implemented; and
- to contract with service providers offering sufficient guarantees in all respect to carry out the services contemplated by the procurement procedures;
- to require any tenderer or candidate to provide the Beneficiary with the duly signed Integrity Statement in the form set out in Schedule 11 - (Declaration of Integrity);
- to provide AFD and its service provider(s) with access to all the data required to verify the compliance of the procurement process carried out by the Beneficiary, as part of any audit conducted pursuant to Article 5.4 (Audit); and
- to retain, in paper and/or electronic form, for a period of seven (7) years beginning on the Deadline for Drawdown of Funds all accounting documents and documents relating to the procurement, assignment and performance of contracts and to provide such documents to the Agency upon request.

6.6 Additional Financing

The Beneficiary shall not amend or alter the Financing Plan without obtaining the Agency’s prior written consent and shall finance any additional costs not anticipated in the Financing Plan on terms satisfactory to the Agency.



6.7 Assignment

Upon the Agency's request, the Beneficiary shall:

- (a) include in the Insurance Policies the Agency as sole beneficiary of any insurance proceeds; and
- (b) assign to the Agency the benefit of the Contractor's Guarantees.

6.8 Implementation of the Project

The Beneficiary shall:

- (a) ensure that persons, groups or entities participating in the implementation of the Project are not listed on any Financial Sanctions List (including those related to the fight against terrorist financing); and
- (b) not purchase, supply, finance any supplies, services or sectors which are subject to an Embargo by the United Nations, the European Union or France.

6.9 Origin of funds, no Acts of Corruption, Fraud, Anti-Competitive Practices or Tax Avoidance Practices or Tax Fraud

- (a) The Beneficiary undertakes:
 - (i) to ensure that the funds invested in the Project (other than the funds from Agency, the Commission or the Contributors) will not come from Illicit Origin;
 - (ii) to ensure that the Project is not structured in a way to contribute to Tax Avoidance Practices or Tax Fraud, and more generally that no Project-related activity contributes to Tax Avoidance Practices or Tax Fraud ;
 - (iii) to ensure that the Project (in particular during the tendering, award, negotiation, entry into and performance of the contracts financed by the Grant) shall not give rise to any Act of Corruption, Fraud or Anti-Competitive Practice;
 - (iv) to inform the Agency with no delay as soon as it becomes aware of or suspects any Act of Corruption, Fraud or Anti-Competitive Practice;
 - (v) to take all necessary measures to remedy the situation in a manner satisfactory to the Agency and within the time period determined by the Agency, in the case of paragraph (iv), or at the Agency's request if the Agency suspects that the acts or practices specified in paragraph (iv) have occurred;
 - (vi) to promptly report on the measures taken under paragraph (v) in a manner satisfactory to the Agency and within the time period determined by the Agency; and
 - (vii) to notify the Agency without delay if it is aware of information which leads to suspect the Illicit Origin of funds invested in the Project.
- (b) In the event that the Beneficiary does not comply with the provisions of this clause 6.9 : (i) any funds used with respect to any Act of Corruption, Fraud, Anti-Competitive Practices or Tax Avoidance Practices or Tax Fraud or (ii) any funds from Illicit Origin shall be declared by the Agency as non-eligible for the financing under this Agreement. Upon request by the Agency, the Beneficiary shall reimburse to the Agency the funds of the Grant used to pay these ineligible costs within twenty (20) calendar days of receipt of the Agency's request.



6.10 Environmental and social responsibility

6.10.1 Implementation of environmental and social measures

In order to promote sustainable development, the Parties agree that it is necessary that internationally recognised environmental and labour standards, including the fundamental conventions of the International Labour Organization (“ILO”) and the relevant international environmental treaties, be complied with.

For such purpose, the Beneficiary shall within the context of the Project:

- (a) include in the competitive bid documentation and procurement contracts a clause whereby each Contractor undertakes, and procures that its sub-contractors (if any) undertake, to comply with such international standards in accordance with the applicable laws and regulations of the country in which the Project is being implemented. The Agency reserves the right to request that the Beneficiary provides a report on environmental and social conditions of implementation of the Project;
- (b) put in place appropriate mitigation measures specific to the Project as defined in the context of the Project environmental and social risk management approach, set out in the Environmental and Social Commitment Plan (ESCP) attached as Schedule 4 - (*Environmental and Social Commitment Plan /Environmental and Social Action Plan*) ;
- (c) require that the contractors appointed for implementing the Project apply the mitigation measures set out in paragraph (b) and procure that their subcontractors (if any) comply with all such measures, and take all appropriate steps in the event of a failure to comply with all such measures; and
- (d) provide the Agency with half-yearly follow-up reports on the implementation of the ESCP.

6.11 Environmental and social Grievance management

- (a) The Beneficiary (i) confirms that it has received a copy of the ES Grievance Management Procedures and has acknowledged its terms, in particular with respect to actions that may be taken by the Agency in the event that a third party lodges a grievance, and (ii) acknowledges that the ES Grievance Management Procedures have, as between the Beneficiary and the Agency, the same contractually binding effect as this Agreement.
- (b) The Beneficiary expressly authorises the Agency to disclose to the Experts (as defined in the ES Grievance Management Procedures) and to parties involved in the compliance audit and/or dispute resolution procedure, the Project documents concerning environmental and social matters necessary for processing the environmental and social Grievance (as defined in the ES Grievance Management Procedures), including, without limitation, those listed in Schedule 9 (*Non-exhaustive list of environmental and social documents which the Beneficiary permits to be disclosed in connection with ES Grievance Management Procedures*).

6.12 Project accounts

The Beneficiary shall open, maintain and use the Project Account in accordance with the terms of this Agreement.

6.13 Undertakings with respect to the delegation of funds by the European Union

- (a) The Beneficiary undertakes to fulfil its obligations under Schedule 8 - (*List of undertakings applicable to the Beneficiary under the delegation of funds by the European Union*) of the Agreement.
- (b) The Beneficiary shall also ensure that the obligations under section 1 “Conflict of interests”, section 2 “Data protection”, section 3 “Communication and visibility”, section 5 “ Accounting and

archiving” and section 6 “Access and financial checks” of the Schedule 8 - (*List of undertakings applicable to the Beneficiary under the delegation of funds by the European Union*) of the Agreement, apply to its contractors.

- (c) With respect to the procurement under the Project, the Beneficiary shall adopt reasonable measures, in accordance with its own regulations and rules, to ensure that potential candidates or tenderers and applicants shall be excluded from the participation in a procurement or grant award procedure and from the award of a procurement contract financed by EU funds, if the Beneficiary becomes aware that these entities (i.e. potential candidates or tenderers and applicants) :
- (i) or persons having powers of representation decision making or control over them, have been the subject of a final judgement or of a final administrative decision for fraud, corruption, involvement in a criminal organisation, money laundering, terrorist-related offences, child labour or trafficking in human beings;
 - (ii) or persons having powers of representation, decision making or control over them have been the subject of a final judgement or of a Final Administrative Decision for an irregularity affecting the EU's financial interest;
 - (iii) are guilty of misrepresentation in supplying the information required as a condition of participation in the procedure or if they fail to supply this information;
 - (iv) have been the subject of a final judgment or of a Final Administrative Decision establishing that the entities have created an entity under a different jurisdiction with the intention to circumvent fiscal, social or any other legal obligations of mandatory application in the jurisdiction of its registered office, central administration or principal place of business;
 - (v) have been created with the intention described in point (iv) above as established by a final judgment or a Final Administrative Decision.

6.14 Undertakings with respect to the delegation of funds by the Contributors

- (a) The Beneficiary undertakes to fulfil its obligations listed under this Clause. The Beneficiary shall also ensure that the obligations listed under Clauses 6.14.1 to 6.14.4 (inclusive) apply to its contractors.

6.14.1 Safeguarding for the prevention of sexual exploitation, abuse and harassment

- (a) The Parties acknowledge that they have a zero tolerance approach towards sexual exploitation, abuse and harassment and accept to take timely action, including investigation, in accordance with their own regulations, rules, policies and procedures.
- (b) The Beneficiary will inform the Agency in a timely manner about any credible suspicions of, or actual incidents of sexual exploitation, abuse or harassment against any person linked to the Project, which the Beneficiary is made aware of. The Beneficiary will (i) assess credibility based on the source of the allegation, the content, and the level of detail or evidence provided and, with respect to credible allegations, conduct investigations in accordance with its regulations, rules, policies and procedures and (ii) promptly inform the Agency of the outcome of such investigations in a manner satisfactory to the Agency.
- (c) To the extent permitted by applicable law, the Parties will adequately co-operate with investigations into such events of sexual exploitation, abuse and harassment.

6.14.2 DFAT Child Protection Policy



Subject to its internal regulations and applicable law, the Beneficiary and its personnel will use its best endeavours to have regard to the Child Protection Policy, accessible on the DFAT website: <http://dfat.gov.au/about-us/publications/pages/child-protection-policy>.

6.14.3 Reasonable assistance and cooperation

- (a) The Beneficiary acknowledges that this Project is a multi-stakeholder international initiative and, as such, it agrees to provide all reasonable co-operation, access and assistance to the Agency, the Commission and/or the Contributors as may be required with respect to implementation of the Project.

6.14.4 Marketing and publicity

- (a) The Beneficiary shall implement the communication and visibility plan of the Project, as amended by agreement where appropriate ("**Communications and Visibility Plan**").
- (b) Unless the Agency or any of the Contributors requests or agrees otherwise, the Beneficiary shall take all appropriate measures to publish the fact that the Project has received funding from the Contributors in accordance with the Communication and Visibility Plan.
- (c) Information given to the press and to the contractors, as well as related publicity material, official notices, reports and publications shall (i) acknowledge that the Project was carried out with funding by the Contributors in accordance with the Communication and Visibility Plan and (ii) include any further information or disclaimer as required under the Communication and Visibility Plan.
- (d) The Beneficiary shall use the Agency's and the Contributors' name, logo design or branding in accordance with the Communication and Visibility Plan.
- (e) Unless otherwise provided for, if disclosure risks threatening the Beneficiary or harming its interests, the Beneficiary agrees that the Contributors publishes in any form and medium, including on its internet sites, the name and address of the Beneficiary, the purpose and amount of the Contributor's contribution.
- (f) The Agency and the Beneficiary will consult immediately and strive to remedy any detected shortcoming in implementing the marketing and visibility requirements set out in this clause.

6.14.5 Intellectual Property

- (a) Ownership of the results of the Project is not conferred on the Contributors. Notwithstanding the provisions subject to Clause 9.8 (Confidentiality - Disclosure of information) and without prejudice to Schedule 8 - (*List of undertakings applicable to the Beneficiary under the delegation of funds by the European Union*), the Beneficiary shall grant, and ensure that the third party concerned (contractors) grants, the Agency and/or the Contributors the right to use, produce, reproduce, adapt, translate, publish, publicly present the work, disseminate and distribute by any technological means and free of charge those results (including reports and any related documents) which are subject to industrial or intellectual property rights.
- (b) Where the results mentioned this paragraph (a) above include pre-existing rights and the Beneficiary cannot warrant the Agency and/or the Contributors the right to use such results, the Beneficiary shall inform in writing the Agency.
- (c) The Beneficiary shall ensure that any intellectual property rights provided under this Agreement will not infringe on the intellectual property rights of others. The Beneficiary acknowledges and agrees that neither the Agency nor the Contributors will have any liability for any claims arising any infringements of intellectual property of third parties.



6.15 Preservation of Project and insurances

The Beneficiary shall

- (a) implement and maintain the Project in accordance with generally accepted principles of care and commercial practice and in accordance with technical standards in force;
- (b) maintain all Project assets in good working order and condition in accordance with all applicable laws and regulations and use such assets for their proper purpose and in accordance with all applicable laws and regulations;
- (c) take out insurance policies to cover the financed assets against the primary construction and operation risks.

6.16 Inspections

- (a) The Beneficiary shall allow the Agency, the Commission, the Contributors and any of their representatives:
 - (i) to participate to the monitoring and evaluation of the Project;
 - (ii) to carry out investigations in relation to any Act of Corruption, Fraud or Anti-Competitive Practice or suspicion thereof; and
 - (iii) to carry out inspections (on-site and/or remote) in relation to the implementation and operations, financial aspects included, of the Project, its impact and the achievement of the objectives of the Project.
- (b) The Beneficiary shall co-operate with the Agency, the Commission, the Contributors and their representatives when carrying out such inspections, the timing and format of which shall, in each case, be determined by the Agency, the Commission and the Contributors following consultation with the Beneficiary. The Beneficiary undertakes to make available to the Commission, the Contributors and their representatives all necessary information and original supporting documents, including all records and accounts relating to the Project.
- (c) The Beneficiary shall retain and make available for inspection by the Agency, all documents relating to the Project for a period of seven (7) years following the Deadline for Drawdown.

6.17 Project Evaluation

The Beneficiary acknowledges that the Agency may carry out, or procure that a third party carries out on its behalf, an evaluation of the Project. Feedback from this evaluation will be used to produce a performance report containing information on the Project, such as total amount and duration of the funding, objectives of the Project, performance targets and actual expenditure of the Project and an assessment of the relevance, efficiency, impact and viability/sustainability of the Project. The Beneficiary agrees that this performance report may be published, in particular, on the website of the Agency, the Commission or the Contributors.

6.18 Safety

The Beneficiary shall comply with all applicable laws and regulations on safety matters as part of the Project. The Beneficiary is solely responsible for the safety of its staff.

The Agency is not responsible for the safety of the Beneficiary's staff or the latter's safety procedures, or for managing the safety of the Beneficiary's staff.

The Agency is not responsible for the safety procedures of the individuals and/or the staff of any legal entities to whom the Beneficiary may entrust or delegate all or part of the Project implementation, in any manner whatsoever.



The Agency will not issue a non-objection opinion concerning the safety obligations that the Beneficiary intends to apply to persons to whom it may entrust or delegate all or part of the Project implementation.

The Beneficiary shall act in compliance with the safety instructions issued by the appropriate local authorities depending on its nationality . The Beneficiary undertakes to communicate these instructions to its staff and to all individuals or legal entities intervening on its behalf under the Project.

If the French Ministry for Europe and Foreign Affairs were to classify one or more Project implementation areas as an "Orange or Red Zone", the Beneficiary undertakes to communicate its safety plan to the appropriate local authorities before its staff begins to work in this (these) area(s).

The Beneficiary undertakes, for the duration of the Project and prior to any movement of its staff, to inquire with the appropriate local authorities, depending on its nationality, about the safety risks involved. It shall ensure that the individuals or legal entities intervening on its behalf as part of the Project implementation comply with the same obligation to inquire about the safety risks involved.

The Beneficiary undertakes, for the duration of the Project, to respect the safety instructions issued by the appropriate local authorities, depending on its nationality.

The Beneficiary ensures that any individuals or legal entities to which it may delegate or entrust all or part of the Project implementation respect, anytime, the safety instructions issued by the appropriate local authorities depending on their nationality.

The Beneficiary is solely responsible for the decision to cancel or maintain the planned travels after obtaining the information above-mentioned..

7. INFORMATION UNDERTAKINGS

The undertakings in this Clause 7 (*Information Undertakings*) take effect on the Signing Date and remain in full force and effect for the duration of this Agreement.

7.1 Progress report

The Beneficiary shall provide the Agency with:

- (a) until the Deadline for Implementation of the Project, within thirty (30) calendar days following a period of six (6) months from March 31st of each year, with a technical and financial semi-annual progress report in relation to the implementation of the Project which shall be prepared in accordance with section 9 of Schedule 8 - (*List of undertakings applicable to the Beneficiary under the delegation of funds by the European Union*) of this Agreement and in the form set out in Schedule 6 (*Form of Follow-up report of the Project Indicators*) ;
- (b) until the Deadline for Implementation of the Project, within thirty (30) calendar days following March 31st of each year, with an annual technical and financial progress report in relation to the implementation of the Project which shall be prepared in accordance with section 9 of Schedule 8 - (*List of undertakings applicable to the Beneficiary under the delegation of funds by the European Union*) of this Agreement and in the form set out in Schedule 6 (*Form of Follow-up report of the Project Indicators*) ;
- (c) within three (3) months after the Deadline for Implementation of the Project, with a general implementation report (the "**General Implementation Report**") including an annual Follow-up report of the Project' Indicators in the form set out in Schedule 5 - (*Environmental and Social Commitment Plan /Environmental and Social Action Plan*) ;

7.2 Information - miscellaneous

The Beneficiary shall provide the Agency with:



- (d) immediately upon becoming aware of them, details of any event or circumstance which is or may be an event causing a deferral or dismissal of a Drawdown request or which has or may have a Material Adverse Effect, the nature of such an event and all the actions taken or to be taken to remedy it (if any);
- (e) immediately any information relating to an event or circumstance which is or may be considered as an utilisation of the funds of the Grant in contradiction with the terms and conditions of the Agreement, a payment which is undue or any other irregularity in the utilisation of the funds of the Grant;
- (f) promptly upon becoming aware of them and at the latest 48 hours following its occurrence, details of any incident or accident directly related to the implementation of the Project which might have a significant impact on the Project site, the safety, the working conditions of its employees or any contractors working on the implementation of the Project, the nature of such incident or accident, together with details of any action taken or proposed to be taken, as applicable, by the Beneficiary to remedy it. The Agency reserves the right to request from the Beneficiary to adopt additional measures in order to deal with such incident or accident. If no agreement is reached with the Beneficiary for the implementation of such measures or remedies, the Agency may terminate this Agreement in accordance with Article 11.2 of this Agreement;
- (g) promptly, details of any decision or event which might affect the organisation, completion or operation of the Project;
- (h) for the all duration of the Project implementation, the interim and final reports prepared by any service provider and/or Contractor, and thereafter a comprehensive implementation report; and
- (i) promptly, any further information or documents with respect to the use of funds and implementation conditions of the Project Documents as well as contracts entered into for their implementation that the Agency may request.

7.3 Financial and statutory information

The Beneficiary shall:

- (a) inform the Agency of any change in its legal status required to be disclosed under any applicable law;
- (b) provide the Agency with its annual financial or budgetary documents after their approval as well as any details that the Agency may reasonably require in relation to its financial position;
- (c) send to the Agency, upon its request, the Beneficiary's minutes of meetings, resolutions and reports of its corporate organs together with its annual audited financial statements or any report in relation to the audit of its financial statements, as the case may be.

8. COSTS AND EXPENSES - REGISTRATION

8.1 Costs and expenses

The Beneficiary shall pay all costs and expenses incurred in connection with the negotiation, preparation and signing of this Agreement including, as the case may be:

- (a) lawyer's fees; and
- (b) registration costs, if registration is requested by one of the Parties, and other similar taxes payable in respect of this Agreement.

Payment by the Agency of any costs and expenses in connection with the negotiation, preparation and signing of this Agreement shall be charged to the remaining funds of the Grant.

8.2 Recovery costs

The Beneficiary shall pay directly or reimburse the Agency for all reasonable costs and expenses, if applicable, that the Agency would incur or has paid for any step to be taken including, without limitation, in case of judicial recourses for the recovery of all amount of the Grant irregularly or unduly used or paid under this Agreement.

9. MISCELLANEOUS

9.1 Language

The language of this Agreement is English. If this Agreement is translated, the English version shall prevail in the event of any conflicting interpretation of the terms of this Agreement or in the event of a dispute between the Parties.

All communications or documents provided under, or in connection with, this Agreement (including any documents related to the procurement of contracts entered into in connection with the Project) may be in both English and French, except for the following documents :

- any reports provided under and in connection with this Agreement (including the reporting documents as set out in Schedule 6 (*Form of Follow-up report of the Project' Indicators*)) shall be in English ; and

The Agency may request that any communication or document provided under, or in connection with, this Agreement which is not in English is accompanied by a Certified English translation, in which case, the English translation shall prevail unless the document is a legal text or other official document.

9.2 Partial Invalidity

If, at any time, a term of this Agreement is or becomes illegal, invalid or unenforceable, the validity, legality or enforceability of the other provisions of this Agreement will not be affected.

9.3 No waiver

Failure to exercise, or delay in exercising, any right on the part of the Agency shall not operate as a waiver of that right.

Partial exercise of a right shall not prevail any further exercise of such right or the exercise of such right or any other right or remedy under any applicable law.

The Agency's rights and remedies under this Agreement are cumulative and not exclusive of its rights and recourse under any applicable law.

9.4 Assignment

The Beneficiary may not assign or transfer, in any manner whatsoever, all or any of its rights and obligations under this Agreement without the prior written consent of the Agency.

The Agency may assign or transfer to a third party its rights and obligations under this Agreement.

9.5 Legal effect

The Schedules annexed hereto, the Procurement Guidelines and the recitals hereof form part of this Agreement and have the same legal effect as the other terms of this Agreement.



9.6 Entire agreement

As of the Signing Date, this Agreement represents the entire agreement between the Parties in relation to the matters set out herein, and supersedes and replaces all previous documents, agreements or understandings which may have been exchanged or communicated as part of the negotiations in connection with this Agreement.

9.7 Amendments

No amendment may be made to this Agreement unless expressly agreed in writing between the Parties.

9.8 Confidentiality - Disclosure of information

- (a) The Beneficiary shall not disclose the content of this Agreement to any third party without the prior consent of the Agency except to:
- (i) any person to whom the Beneficiary has a disclosure obligation under any applicable law, regulation or judicial ruling;
- (b) Notwithstanding any existing confidentiality agreement, the Agency may disclose any information or documents in relation to the Project to: (i) its auditors, experts, rating agencies, legal advisers or supervisory bodies, such as, for instance, the European Anti-Fraud Office (OLAF); (ii) any person or entity for the purpose of taking any protective measures or preserving the rights of the Agency under this Agreement and (iii) any person to whom the Agency and/or the Contributors have a disclosure obligation under any applicable law, regulation or judicial ruling. For the avoidance of doubt, the Beneficiary hereby expressly authorises the Agency to disclose the Agreement and any information or documents in relation to the Project to the Commission and the Contributors (including any reports prepared under this Agreement).
- (c) Furthermore, the Beneficiary hereby expressly authorizes the Agency to communicate and to disclose on the Agency's Website information relating to the Project and its financing as listed in Schedule 7 - (*Information that the Agency is authorized* expressly to disclose on the Agency's Website).

9.9 Statute of Limitations

The statute of limitations period in relation to this Agreement is ten (10) years.

10. NOTICES

10.1 In writing

Any notice, request or other communication provided under or in connection with this Agreement shall be made in writing and, unless otherwise stated, may be given by email or by post to the address and number of the relevant Party set out below:

For the Beneficiary:

**THE SECRETARIAT OF THE PACIFIC REGIONAL ENVIRONMENT PROGRAMME
(SPREP)**

Address: PO BOX 240 – APIA – SAMOA

Telephone: (+685) 21929

Attention: Mr. KOSI LATU – Director General

With a copy to : Mr. Nicolas Rocle, Marine environment and conservation specialist

For the Agency:

AFD HEAD OFFICE

Address: 5, Rue Roland Barthes 75598 PARIS Cedex 12

Telephone: 00 (33) 01 53 44 31 31

Attention: Director of Three Oceans Department

With a copy to: Lorraine MERIEM, Country manager for New Caledonia and the Pacific

PACIFIC OCEAN REGIONAL OFFICE

Address: 1 rue de Barleux – BP J1 98849 Noumea Cedex

Telephone: 00 (687) 24 26 00

Attention: Mr. PHILIPPE RENAULT, Head of AFD Pacific Ocean Regional Office

or such other address, email address, department or officer as one Party notifies to the other Party with at least five (5) Business Days' prior notice.

10.2 Effectiveness of postal communications

Any notice, request or communication made, or any document sent, by a Party to the other Party in connection with this Agreement is deemed to become effective as follows:

- (a) when delivered to the correct address; and
- (b) where a particular person or a department has been specified, if such notice, request or communication has been addressed to that person or department.

10.3 Effectiveness of electronic communications

- (a) Any communication made by one person to another under or in connection with this Agreement may be sent by electronic mail or other electronic means if the Parties:
 - (iii) notify each other in writing of their electronic mail address and/or any other information required to enable the sending and receipt of information by that means; and
 - (iv) notify each other of any change to their address or any other such information supplied by them.
- (b) Any electronic communication made between the Parties will be effective only when actually received in a readable form.

11. ENTRY INTO FORCE – DURATION – TERMINATION

11.1 Entry into Force and Duration

This Agreement comes into force on the day of the Signing Date and shall remain in full force and effect until the expiration date of a two (2) year period starting on the date of the Final Audit Report set out in Clause 3.2.1(e) (*Justification for Use of Advances*) as from the Signing Date.

Notwithstanding the above, the requirements of Clause 3.2.1(k) (*Retention of documents*), clause 6.16 (*Inspections*) and Clause 9.8 (*Confidentiality - Disclosure of information*) will remain in full force and effect for five (5) years following the date mentioned in the paragraph above; the provisions of Clause 6.11

(Environmental and social grievance management) shall continue to have effect whilst any grievance lodged under the ES Grievance Management Procedures is still being processed or monitored.

11.2 Termination

The Agency reserves the right to terminate this Agreement if the first Drawdown has not been drawn within eighteen (18) months from the date of approval of the Grant referred to in paragraph (F) of the Recitals.

The Agency also reserves the right to terminate this Agreement upon the occurrence of one of the events referred to in Clause 4 (*Postponement or Dismissal of the Drawdown Requests*).

The Agency shall inform the Beneficiary of such termination by registered mail. Following receipt of such termination notice, the Parties shall consult each other on how to bring this Agreement to an orderly and reasonable end.

Upon request by the Agency, and due to the occurrence of any of these events referred to in this Clause, the Beneficiary shall repay the funds of the Grant, in whole or in part within twenty (20) calendar days of receipt of the Agency's request.

12. GOVERNING LAW, ENFORCEMENT AND SERVICE OF PROCESS

12.1 Governing Law

This Agreement is governed by French law.

12.2 Jurisdiction

Any dispute arising out of or in connection with this Agreement shall be settled by the courts of PARIS.

12.3 Choice of domicile

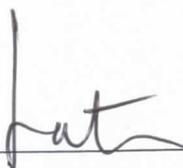
Without prejudice to any applicable law, for the purposes of serving judicial and extrajudicial documents in connection with any action or proceedings referred to above, the Beneficiary irrevocably chooses its registered office as at the date of this Agreement at the address set out in Clause 10 (*Notices*) as its domicile, and the Agency chooses the address "AFD Head Office" set out in Clause 10 (*Notices*) as its domicile.



Executed in (2) two originals, at Noumea, on November 18th, 2020.

BENEFICIARY

THE SECRETARIAT OF THE PACIFIC REGIONAL ENVIRONMENT PROGRAMME (SPREP)



Represented by:



The stamp is circular with a red border. The text inside the border reads "SECRETARIAT OF THE PACIFIC REGIONAL ENVIRONMENT PROGRAMME" in a circular arrangement. The center of the stamp is blank.

Name: KOSI LATU

Capacity: DIRECTOR GENERAL

AGENCY

AGENCE FRANÇAISE DE DÉVELOPPEMENT



Represented by:

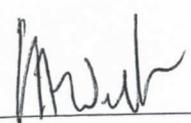


The stamp is circular with a black border. The text inside the border reads "AGENCE FRANÇAISE DE DÉVELOPPEMENT EN NOUVELLE CALÉDONIE" in a circular arrangement. In the center, the address "1, rue Barleux BP J1 98849 NOUMEA" is printed.

Name: PHILIPPE RENAULT

Capacity: AFD REGIONAL DIRECTOR FOR THE PACIFIC

Cosigner, Mr. Luc ASSELIN DE WILLIENCOURT, Deputy representative of France to the Secretariat of the Pacific Regional Environment Programme



Schedule 1A - Definitions

Acceptable Bank	means any bank acceptable to the Agency.
Account Bank	means the Acceptable Bank with which the Beneficiary shall open and maintain the Project Account.
Act of Corruption	means any of the following: (a) the act of promising, offering or giving, directly or indirectly, to a Public Official or to any person who directs or works, in any capacity, for a private sector entity, an undue advantage of any nature, for the relevant person himself or herself or for another person or entity, in order that this person acts or refrains from acting in breach of his or her legal, contractual or professional obligations and, having for effect to influence his or her own actions or those of another person or entity; or (b) the act of a Public Official or any person who directs or works, in any capacity, for a private sector entity, soliciting or accepting, directly or indirectly, an undue advantage of any nature, for the relevant person himself or herself or for another person or entity, in order that this person acts or refrains from acting in breach of his or her legal, contractual or professional obligations and, having for effect to influence his or her own actions or those of another person or entity.
Advance(s)	has the meaning given to this term in Clause 3.3 (<i>Payment Mechanics</i>).
Agreement	means this financing agreement, including its recitals, Clauses, Schedules, Procurement Guidelines and, if applicable, any amendments made in writing thereto.
Anti-Competitive Practices	means: (a) any concerted or implicit action having as its object and/or as its effects to impede, restrict or distort fair competition in a market, including without limitation when it tends to: (i) limit market access or the free exercise of competition by other companies; (ii) prevent price setting by the free play of markets by artificially favouring the increase or decrease of such prices; (iii) limit or control any production, markets, investment or technical progress; or (iv) share out markets or sources of supply; (b) any abuse by a company or group of companies of a dominant position within a domestic market or in a substantial part thereof; or (c) any bid or predatory pricing having as its object and/or its effect to eliminate from a market, or to prevent a company or one of its products from accessing the market.
Authority(ies)	means any government or any body, department or commission exercising a public prerogative, or any administration, court, agency or

	state or any governmental, administrative, tax or judicial entity.
Authorization(s)	means any Authorization, consent, approval, resolution, permit, licence, exemption, filing, notarization or registration, or any exemptions in respect thereof, obtained from or provided by an Authority, whether granted by means of an act or omission within a defined time limit.
Certified	means for any copy, photocopy or other duplicate of an original document, the certification by any duly authorised person, as to the conformity of the copy, photocopy or duplicate with the original document.
Closing Expenses	means costs relating to the final report, the final evaluation, the final audit and other costs in connection with the closing of the Project.
Component B1	means the sub-component B1 of the Project as described in Schedule 2 - (Project Description)
Component B2	means the sub-component B2 of the Project as described in Schedule 2 - (Project Description)
Contractor(s)	means third party contractor(s) appointed by the Beneficiary to implement all or part of the Project as described in Schedule 2 - (<i>Project Description</i>).
Contractor's Guarantee(s)	means any guarantee provided to the Beneficiary directly or indirectly by any co-contractor in charge of the implementation of the Project or any part thereof, such as, for example, the completion guarantee or the advance payment guarantee.
Contribution Agreement	has the meaning given to this term in paragraph (C) of the preamble of this Agreement
Contribution Arrangement(s)	has the meaning given to this term in paragraph (E) of the preamble of this Agreement
Contributor(s)	has the meaning given to this term in paragraph (D) of the preamble of this Agreement
Deadline for Drawdown	Means March, 31 st , 2024, date after which no further Drawdown may occur.
Deadline for Implementation of the Project	means the date defined as in the special conditions of the Contribution Agreement and/or referred to in the Contribution Arrangements (as the date upon which the "Implementation Period" expires), which shall occur no later than March, 30 th , 2025.
Drawdown	means the drawdown of all or part of the funds made available by the Agency to the Beneficiary in connection with the Grant pursuant to the conditions set out in Clause 3 (<i>Drawdown of Funds</i>).
DFAT	has the meaning given to this term in paragraph (D) of the preamble of this Agreement
DFATD	has the meaning given to this term in paragraph (D) of the preamble of this Agreement

Eligible Expense(s)	means the expense(s) relating to the description of the Project as set out in Schedule 3 - (<i>Financing Plan</i>), which are incurred for work and services carried out before the Deadline for Implementation of the Project and considered as eligible under article 18 (" <i>Eligible Expenses</i> ") of Schedule II – Part II (General Conditions) of the Contribution Agreement.
Embargo	means any sanction of a commercial nature which is intended to prohibit any import or export (any supply, sale or transfer) of one or several types of goods, products or services going to and/or coming from any country for a given period and as published and amended by the United Nations, the European Union or France.
ES Grievance Management Procedures	means the contractual terms contained in the Environmental and Social Grievance Management Procedures, which is available on the Website, as amended from time to time.
ESCP	means the environmental and/or social commitment plan substantially in the form set out in Schedule 5 – (<i>Environmental and Social Commitment plan/Environmental and Social Action Plan</i>), setting out the Beneficiary's commitment to avoid, mitigate or compensate negative consequences of the Project, on human and natural environment and any planned monitoring as well as the formal steps required in order to carry out such actions.
Euro(s) or EUR	means the single currency of the member states of the European Economic and Monetary Union, including France, and having legal tender in such member states.
Final Audit Report	has the meaning given to this term in Clause 3.2.1(e) (<i>Justification for use of Advances</i>).
Financial Sanctions List	<p>means the list(s) of specially appointed persons, groups or entities which are subject to financial sanctions by the United Nations, the European Union and France.</p> <p>For information purposes only and for the convenience of the Beneficiary, who may not rely on them, the following references or website addresses are provided:</p> <p>For the lists maintained by the United Nations, the following website may be consulted:</p> <p>https://www.un.org/sc/suborg/fr/sanctions/un-sc-consolidated-list For the lists maintained by the European Union, the following website may be consulted:</p> <p>https://eeas.europa.eu/headquarters/headquarters-homepage/8442/consolidated-list-sanctions_fr</p> <p>For the lists maintained by France, the following website may be consulted:</p> <p>https://www.tresor.economie.gouv.fr/services-aux-entreprises/sanctions-economiques/dispositif-national-de-gel-des-avoirs</p>

Financing Plan	means the financing plan of the Project set out in Schedule 3 - (<i>Financing Plan</i>).
Force Majeure	means any unforeseeable exceptional situation or event beyond the Parties control which prevents either of them from fulfilling any of its obligations under the Agreement, which may not be attributed to error or negligence on either part (or the part of Contractors, agents or staff), and which could not have been avoided by the exercise of due diligence.
Fraud	means any unfair practice (acts or omissions) deliberately intended to mislead others, to intentionally conceal elements there from, or to betray or vitiate his/her consent, to circumvent any legal or regulatory requirements and/or to violate internal rules and procedures of the Beneficiary or a third party in order to obtain an illegitimate benefit.
Fraud against the Financial Interests of the European Community	means any intentional act or omission intended to damage the European Union budget and involving (i) the use or presentation of false, inaccurate or incomplete statements or documents, which has as its effect the misappropriation or wrongful retention of funds or in any illegal reduction in resources of the general budget of the European Union; (ii) the non-disclosure of information with the same effect; and (iii) misappropriation of such funds for purposes other than those for which such funds were originally granted.
Grant	means the commitment granted by the Agency in accordance with this Agreement up to the maximum principal amount set out in Clause 2 (<i>Grant, Purpose and Conditions of Utilisation</i>).
Illicit Origin	means funds obtained through: <ul style="list-style-type: none"> – the commission of any predicate offence as designated in the FATF 40 recommendations Glossary under "<i>catégories désignées d'infractions</i>" (http://www.fatf-gafi.org/media/fatf/documents/recommendations/Recommendations_GAFL.pdf); – any Act of Corruption; or – any Fraud against the Financial Interests of the European Community, if or when applicable.
Insurance Policies	means the insurance policies that the Beneficiary is required to subscribe and maintain in connection with the implementation of the Project, in a form acceptable to the Agency.
Integrity Statement	means the integrity, eligibility and environmental and social undertaking statement, the form for which is set out in Schedule 11
Material Adverse Effect	means a material adverse effect on: <ul style="list-style-type: none"> – the Project, insofar as it would jeopardise the continuation of the Project in accordance with this Agreement and the Project Documents; – the business, assets, financial condition of the Beneficiary or its ability to honour its obligations under this Agreement and the

	<p>Project Documents;</p> <ul style="list-style-type: none"> – the validity or enforceability of this Agreement and any Project Documents.
MFAT	has the meaning given to this term in paragraph (D) of the preamble of this Agreement
Procurement Guidelines	means the procurement guidelines of the Beneficiary in full force and effect on the date of this Agreement, a copy of which has been delivered to the Agency.
Project	means the project as described in Schedule 2 - (<i>Project Description</i>).
Project Account	has the meaning given to this term in Clause 3.2.1 (a) (<i>Opening of the Project Account</i>).
Project Authorizations	means the Authorizations necessary in order for (i) the Beneficiary to implement the Project and execute all Project Documents to which it is a party and to exercise its rights and perform its obligations under the Project Documents to which it is a party; and (ii) the Project Documents to which the Beneficiary is a party to be admissible as evidence before courts in the jurisdiction of the Beneficiary or before a competent arbitral tribunal.
Project Documents	<p>means all the documents, and in particular agreements, supplied or executed by the Beneficiary regarding the implementation of the Project, including without limitation the following documents:</p> <ul style="list-style-type: none"> – contracts entered into with the Contractor(s) for the implementation of the Project; – Project's Operational Manual
Public Official	means any holder of legislative, executive, administrative or judicial office whether appointed or elected, permanent or temporary, paid or unpaid, regardless of rank or any other person defined as a public officer under the domestic law of the Beneficiary's jurisdiction of incorporation, and any other person exercising a public function, including for a public agency or organisation, or providing a public service.
Schedule (s)	means any Schedule or Schedule s to this Agreement.
Signing Date	means the date of execution of this Agreement by all the Parties.
Tax Avoidance Practices	<p>means using legal instruments in order to pay as little tax as possible. A practice of tax avoidance is characterized when, in light of all the involved entities and relevant financial flows, the structuring of a project is not justified by business reasons reflecting the project's economic reality but for the main purpose, or one of the main purposes, of benefiting from a favourable tax regime that would not have been applicable in the absence of such structuring.</p> <p>Tax avoidance practices include, but are not limited to: (i) the use of</p>

	harmful tax practices; (ii) the use of offshore structures or arrangements aimed at attracting profits which do not reflect real economic activity in the jurisdiction; and / or (iii) the use of so-called base erosion and profit shifting practices as identified in the OECD BEPS Action Plan (including: abuse of double tax conventions, artificial use of hybrids or artificial avoidance of permanent establishment status).
Tax Fraud	means using illegal practices to avoid paying taxes, for example by not declaring profits or using various ways to avoid paying VAT.
Website	means the website of the Agency (http://www.afd.fr/) or any other such replacement website.



Schedule 1B - Construction

- (a) “**assets**” includes all present and future properties, revenues and rights;
- (b) any reference to the “**Beneficiary**”, a “**Party**” or a “**Agency**” includes its successors in title, permitted assigns and permitted transferees;
- (c) any reference to this Agreement or other document or security is a reference to this Agreement or to such other document or security as amended, restated or supplemented and includes, if applicable, any document which replaces it through novation, in accordance with this Agreement;
- (d) a “**guarantee**” includes any security and any guaranty which is independent from the debt to which it relates;
- (e) a “**person**” includes any person, company, corporation, partnership, trust, government, state or state agency or any association, or group of two or more of the foregoing (whether or not having separate legal personality);
- (f) a “**regulation**” includes any legislation, regulation, rule, decree, official directive, instruction, request, advice, recommendation, decision or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, supervisory authority, regulatory authority, independent administrative authority, agency, department or any division of any other authority or organisation (including any regulation issued by an industrial or commercial public entity) having an effect on this Agreement or on the rights and obligations of a Party;
- (g) a provision of law is a reference to that provision as amended;
- (h) unless otherwise provided, a time of day is a reference to Paris time;
- (i) The Section, Clause and Schedule headings are for ease of reference only and do not affect the interpretation of this Agreement;
- (j) unless otherwise provided, words and expressions used in any other document relating to this Agreement or in any notice given in connection with this Agreement have the same meaning in that document or notice as in this Agreement; and
- (k) a reference to a Clause or Schedule shall be a reference to a Clause or Schedule of this Agreement.



SCHEDULE 2 - Project Description

A. GENERAL BACKGROUND

Characterized by their remoteness and by being scattered over an ocean covering the third of the surface of the globe, Pacific Island countries and territories (PICTs) are highly vulnerable to the adverse impacts of climate change. Rising sea levels, storm surges, floods, droughts, cyclones, coral bleaching, coastal erosion and changing precipitation patterns are common factors affecting the 30 000 islands scattered over this vast area. These countries and territories are also characterized by exceptional land and marine biodiversity that is subject to cumulative anthropic pressure (destruction and fragmentation of natural areas, pollution, introduction of invasive alien species, overuse of natural resources), and exacerbated by climate change. In this context, the well-being and subsistence of the populations and in particular, their poorest, which are heavily dependent on ecosystem services, are severely impacted.

In the spirit of the Blue Pacific vision, which draws on the shared ocean identity of PICTs to empower the region and overcome common development challenges, many regional frameworks including the Framework for Resilient Development in the Pacific and the Pacific Oceanscape Framework stress the need for regional coordination to tackle regional challenges. However, a gap exists between the profusion of regional frameworks and their implementation on the ground. Three main factors can be put forward to explain this gap:

- PICTs do not have sufficient funding to support their ambitions as outlined in national and regional frameworks and policies;
- PICTs do not have the capacity and technical support to access funds and implement projects;
- Donor coordination in the region and the profusion of on-going projects on the issues regarding climate change adaptation and/or biodiversity conservation in PICTs have proven to be a challenge for PICTs for effective project design and implementation.

To tackle these challenges, at the One Planet summit of December 2017, President of France Emmanuel Macron committed to launch a new multi-stakeholder international initiative designed to increase the capacities of PICTs to adapt to the impact of climate change; and to protect, restore, and enhance biodiversity in order to strengthen the resilience of their socio-ecological systems.

Officially started on March 31st, 2020, the “Kiwa Initiative – Nature-based solutions for climate resilience” is the first programme ever to gather five donors (AFD, the European Union, Canada, Australia and New-Zealand) and regional/national partners around a common objective : to enhance access to funding for rights-based gender-sensitive and socially-inclusive climate change adaptation through nature-based solutions for local and national authorities, regional and civil society organisations.

The Kiwa Initiative is divided into three main components:

- **Component A:** technical assistance and small scale granting facility targeting nature-based solutions for climate change adaptation.
- **Component B:** technical and financial support for large projects targeting nature-based solutions for climate change adaptation
 - *Sub-Component B1: Technical support for project development*
 - *Sub-Component B2: Selection and financing of large national and regional projects*
- **Component C:** management and coordination of the Kiwa Initiative by the Secretariat.

B. RELEVANCE OF THE ACTION

The inclusion of KIWA's B1 component will allow support for capacity building in the beneficiary PICTs and support the development of large regional projects. Both of these fundamental and complementary actions will allow cross cutting activities between biodiversity and climate change within beneficiary countries and territories. Implementations will aim to develop such cross cutting approaches, which constitute a paradigm shift, towards the inclusion of this new concept in short and mid-term policies.

Nature based solutions, integrated biodiversity conservation and climate change adaptation activities will be implemented in the PICTs and CROP agencies

Globally, the objectives of component B1 of the Kiwa Initiative are as follow:

- Identify major projects to be submitted for funding to the Kiwa Initiative
- Support for project development through capacity building of PICTs to mainstream nature-based solutions into climate change adaptation projects and policies
- Support for project design through tailored technical assistance to project developers (PICTs, regional organisations) and management of feasibility studies on nature-based solutions for climate change adaptation
- Support for the implementation of cross-cutting activities within projects on nature-based solutions for climate change adaptation financed by the Kiwa Initiative (lessons learnt process, showcasing and disseminating results) at the design, launch and implementation phases
- Promote the Kiwa Initiative to regional, national and local stakeholders;
- Ensure coordination and synergies between beneficiaries of the Kiwa Initiative, the Secretariat and donors regarding projects on nature-based solutions for climate change adaptation in the region

Component B1 will be implemented by both SPREP and SPC.

SPREP is the lead intergovernmental regional environmental organisation of the Pacific, with 21 Pacific island and territory Members (American Samoa, Cook Islands, Federated States of Micronesia, Fiji, French Polynesia, Guam, Kiribati, Marshall Islands, Nauru, New Caledonia, Niue, Northern Marianas, Palau, Papua New Guinea, Samoa, Solomon Islands, Tokelau, Tonga, Tuvalu, Vanuatu and Wallis & Futuna) and five metropolitan Members (Australia, France, New Zealand, United Kingdom and United States of America) with direct interests in the region.

The SPREP mandate is to promote cooperation in the Pacific region and to support Members to protect and improve the environment and to ensure sustainable development for present and future generations. SPREP core priorities are Climate Change Resilience, Ecosystem and Biodiversity Protection, Environmental Governance, and Waste Management and Pollution Control. It is guided by its vision for the future, A resilient Pacific environment, sustaining our livelihoods and natural heritage in harmony with our cultures.

SPREP also functions as the Secretariat for the Noumea Convention and the Waigani Convention.



C. OBJECTIVES AND OUTPUTS

Overall Objective

The **overall objective** of the Project is to strengthen the resilience of Pacific Island ecosystems, economies and communities to the effects of climate change.

Specific Objective

The **specific objective** of the Project is to support project development and implementation for PICTs and SPREP programmes in the framework of Component B1 of the Kiwa Initiative.

The main expected results of the Project are:

- **Key Result Area 1** - Capacities of PICTs to integrate nature-based solutions consideration in response to climate change adaptation and biodiversity conservation into their national and local policies are enhanced
- **Key Result Area 2** – Support for the development and implementation of large projects under Component B2 of the KIWA Initiative is successfully provided
- **Key Result Area 3** –KIWA Initiative’s components are fully integrated through the technical task force and within SPREP related-programmes and projects

SPREP Approach to contribute to the KIWA Initiative objectives

One of the goals of the Kiwa Initiative consists in building capacity to support the implementation of nature-based solutions in the face of environmental change, especially from the impacts of climate change. This will be done by addressing the critical nexus between the need to sustain food security and livelihoods while protecting and restoring ecosystems and ecosystem services that underpin coastal and marine fisheries, shoreline protection, and maintenance of water quality, tourism activities, and resilience to climate change impacts. This can only be achieved by a holistic approach that addresses biophysical, socio-economic, developmental, governance and climate change factors through the application of ecosystem-based management (EBM) and ecosystembased adaptation to climate change (EbA) methodologies.

Implementation of the Kiwa Initiative at regional and national levels will take into account, *inter alia*, the following key regional policy and strategic instruments:

- *Framework for a Pacific Oceanscape* adopted by Pacific island Leaders in 2010
- *Regional Roadmap for Sustainable Pacific Fisheries* endorsed by the Pacific Leaders' Forum in 2015
- *Framework for Nature Conservation and Protected Areas in the Pacific Islands Region 2014- 2020* adopted by the 26 Member countries and territories of SPREP in 2014.
- *Framework for Resilient Development in the Pacific 2017-2030* endorsed by Pacific Islands Forum Leaders in 2016

SPREP will apply the nine principles adopted in the Framework for Nature Conservation and Protected Areas:

- Principle 1: Community Rights
- Principle 2: Conservation from a Pacific Perspective
- Principle 3: Ownership of Conservation Programmes
- Principle 4: Financial Sustainability
- Principle 5: Good Governance
- Principle 6: Coordination and Collaboration
- Principle 7: Capacity Development
- Principle 8: Accountability
- Principle 9: Reinforcing Resilience and Sustainability



To these will also be added gender equity and a rights-based approach.

SPREP will also apply principles for integrated island management defined by SPREP and the UN Environment Programme in *Pacific Integrated Island Management – Principles, Case Studies and Lessons Learned* (2013), including:

- Adopting a long-term integrated approach to ecosystem management
- Using clearly defined boundaries for ecological and governance systems
- Maintaining and restoring connectivity between complex social and ecological systems
- Incorporating stakeholders through participatory governance
- Ensuring that management rules reflect stakeholder values and conditions
- Recognising rights to organise and develop management rules
- Recognising uncertainty and planning for adaptive management, and applying evidence-based decision making

In addition to the explicit connections between the KIWA Initiative and the Pacific-European Union Marine Partnership programme outlined in KRA 2, the KIWA Initiative will link to other relevant projects and programmes that SPREP is implementing or is engaged with, including:

- EU ACP SIDS Support Programme Pacific-ACP component focused on coastal and marine biodiversity and climate change
- Pacific Ecosystem-based Adaptation to Climate Change project (German IKI funded)
- EU EDF-11 Pacific Adaptation to Climate Change and Resilience Building (PACRES)
- Strengthening Coastal Biodiversity Conservation and Management through Protection and Rehabilitation Incentives for Coastal Carbon Sinks in Pacific Island Countries (German IKI funded)
- EU Biodiversity and Protected Areas Management (BIOPAMA) project
- GEF-6 Regional Invasive Species project
- EU EDF-11 OCTs PROTEGE project
- GEF-5 Inform Project - Building National and Regional Capacity to Implement Multilateral Environment Agreements by Strengthening Planning and State of Environment Assessment and Reporting in the Pacific
- EU ACP Capacity Building Related to Multilateral Environmental Agreements Phase 3 project
- Support Programme for ACP Small Island Developing States (SIDS) in the Pacific

SPREP will also work with countries and partners to identify synergies and avoid duplication with other projects and programmes such as the UNDP implemented Ridge-to-Reef programme being implemented across the region.

D. DESCRIPTION OF ACTIVITIES

Nature-based-solutions will be promoted through the KIWA Initiative at local, national, regional and international levels

As SPC will also be involved in component B1 implementation, collaboration will be sought between the two regional organisations to ensure coherence and common approach to implementation.

Capacity building, support for project development and coordination activities of the Project will be implemented in line with the Kiwa Initiative's Operations and Procedures Manual. In particular, it will include all relevant information on B2 project appraisal process and eligibility/selection criteria that need to be fulfilled.

KRA 1 - Capacities of PICTs to integrate nature-based solutions consideration in response to climate change adaptation and biodiversity conservation into their national and local policies are enhanced

Activity 1.1: Strengthen the capacity of regional, national and local stakeholders to integrate nature-based solutions into national and local policies and to develop related regional projects

- Conduct regional, national and local training workshops and webinars aiming at integrating both climate change and biodiversity into national and local policies by implementing nature-based solutions approach. Activities will include the following: (i) *establish a dialogue with national/local authorities to develop an*

integrated framework biodiversity and CC within policies; (ii) Support the national institutions to structure themselves to achieve these expected outcomes ; (iii) Organize site visits in-countries between PICTs in links with the KRA2 (project development); (iv) Encourage fundraising and additional funding to support project developed under KIWA Initiative.

- The implementation of the activities will contribute to the Pacific Climate Change Center (PCCC) overall objective of training courses aimed at enhancing capacities in the areas of climate change. Links will be sought with the Pacific Adaptation and Climate Change Resilience building project (PACRES) activities in order to pool resources when relevant.
- Design and implement training workshops for national and local authorities to strengthen country and territory capacities in regional project development related to nature-based solutions as a key-result for climate change adaptation.

Activity 1.2: Promote the KIWA Initiative through nature-based solutions approach for climate change adaptation and support PICT participation at regional and international levels, including preparation of communication materials

- Support PICTs and SPREP participation in international and regional major events via side-events including the 10th Pacific Islands Conference for nature conservation and protected areas in Noumea, Our Oceans Conference in Palau and other major international and regional events such as the UN Ocean Conference and CBD CoP15.
- Actively promote the Initiative's actions at relevant international, regional, national or local events by organizing side-events and developing additional partnerships. These partnerships would help to implement project activities or/and would provide a co-financing support for projects under component B2.

KRA 2 – Support for the development and implementation of large projects under component B2 of the KIWA Initiative is successfully provided

Activity 2.1: Identification, support to implementation and monitoring of SPREP-led projects in collaboration with PICTs.

- Work in close collaboration with SPREP project managers and related programme advisers to identify opportunities and needs for B2 project development that address the KIWA Initiative objectives.
- Assist SPREP project managers and programme advisers in project development to be submitted to the KIWA Initiative under component B2.
- Produce and update a list of priority projects to be presented to the Initiative's funding.
- Assist SPREP project managers and programme advisers in conducting B2 project appraisal process including management of feasibility studies (if required by the Secretariat and/or the Steering Committee), project document drafting support and relevant environmental and social standards compliance.
- Assist SPREP project managers and programme advisers in project implementation and monitoring under component B2.
- Ensure effective consultations and continued dialogues are carried out with PICTs both at the project development and implementation phases.

Activity 2.2: Support for PICT-led regional projects development by integrating local, national and regional partnerships.

- Identify opportunities and needs for B2 project development led by PICTs that address the KIWA Initiative objectives.
- Assist PICTs in project development to be submitted to the KIWA Initiative under component B2.
- Support PICT-led B2 project appraisal process including management of feasibility studies, project document drafting support and relevant environmental and social standards compliance.
- Assist PICTs in project implementation and monitoring under component B2.

KRA 3 – KIWA Initiative’s components are fully integrated through the Technical task force and within SPREP related-programmes and projects

Activity 3.1: Support to SPREP in implementing the KIWA Initiative objectives and SPREP programme and project goals.

- Establish a SPREP technical committee and facilitate meetings to build lessons learnt on the implementation on Nature-Based Solutions for Climate change adaptation;
- Ensure SPREP relevant departments and programmes are aware of the Initiative and of its objectives;
- Establish synergies between the KIWA Initiative and other projects funded by various sources (GCF, GEF, UN, EU, etc);
- Ensure a capacity building program based on Activity 1.1 which will structure a follow-up mechanism for workshops and webinars.

Activity 3.2: Ensure the link between the KIWA Initiative components as a common and integrated approach especially between component A and the both sub-components B1 and B2.

- Participate in the KIWA Initiative Steering committee.
- Take part of the granting mechanism committee which will be led by IUCN under the component A (as an observer). Maintain and consolidate the partnerships between stakeholders involved in the implementation of the KIWA Initiative and in particular with IUCN-ORO and SPC through the technical task force.

E. INSTITUTIONAL SET-UP

Project Structure

A full time Project development Coordinator will be recruited by SPREP in the Island and Ocean Ecosystems Programme under the responsibility of the IOE programme Director and will be responsible for the successful implementation of component B1 as per the key results areas. The Project development Coordinator will work full time on the Project.

He/she will work in close contact with the Project Development Coordinator at SPC to ensure synergies within activities under B1 component of the Kiwa Initiative in the framework of the Technical Taskforce of the Kiwa Initiative.

F. INDICATIVE LOGICAL FRAMEWORK - SPREP Component B1

Kiwa's initiative outputs	Project's specific objective and Key Results Areas	Project's activities	Indicators	Sources of data
<p>Output 1: Strengthen capacities of local and national authorities, civil society organisations (including those that represent women and indigenous peoples) and regional organisations to design and implement rights-based gender-sensitive and socially-inclusive small to large-scale projects on nature-based solutions for climate change adaptation at the local, national and regional levels</p>	<p>Project's specific objective : support project development and implementation for PICTs and SPREP programmes in the framework of Component B1 of the Kiwa Initiative.</p>	<p>KRA1: Capacities of PICTs to integrate nature-based solutions consideration in response to climate change adaptation and biodiversity conservation into their national and local policies are enhanced</p>	<p>Number of training workshops conducted (at the national and regional levels)</p> <p>Number of webinars conducted (at the national and regional levels)</p> <p>Number of public institutions and civil society organizations benefiting from capacity building activities (disaggregated by PICTs)</p> <p>Number of participants reporting better knowledge, access and use of funding (disaggregated by sex and PICTs)</p> <p>Number of B2 project proposals arising from participants following capacity building activities</p> <p>Number of PICT targets reached by capacity building activities.</p> <p>Number of local and national policies adopted mainstreaming Climate Change adaptation and biodiversity conservation by using NBS</p> <p>Number of NBS and CC policies/initiatives launched by trainees following capacity building activities</p>	<p>Monitoring reports from SPREP</p>

<p>Activity 1.2: Promote the KIWA Initiative through nature-based solutions approach for climate change adaptation and support PICTs participation at regional and international levels, including preparation of communication materials</p>	<p>Number of events involving KIWA stakeholders</p> <p>Number of KIWA side-events conducted</p> <p>Number of partnerships initiated</p> <p>Number of regional projects identified and submitted to the Initiative</p> <p>Number of projects whose appraisal process has been successfully supported</p> <p>Number of feasibility studies implemented.</p> <p>Number of projects supported in the implementation phase</p> <p>Number of hectares protected or sustainably managed with support of these actions</p>	<p>Monitoring reports from SPREP</p> <p>Monitoring reports from SPREP</p> <p>Number of large project identified and submitted to the Initiative</p> <p>Number of projects whose appraisal process has been successfully supported</p> <p>Number of feasibility studies implemented.</p> <p>Number of projects supported in the implementation phase</p> <p>Number of hectares protected or sustainably managed with support of these actions</p> <p>Number of projects implemented and number of stakeholder entities engaged in projects funded by KIWA large projects</p> <p>Number of co-funders</p> <p>Amount of additional funding contributing to projects developed under KIWA Initiative</p>
<p>Output 2: Strengthen efforts for rights-based gender-sensitive and socially-inclusive nature-based solutions for climate change adaptation at local, national and regional levels through granting/funding facilities</p>	<p>KRA2: Support for the development and implementation of large projects under Component B2 of the KIWA Initiative is successfully provided</p>	<p>Support for PICTs led regional projects development by integrating local, national and regional partnerships and encourage fundraising as additional funding to support project developed under KIWA Initiative</p>

<p>Output 3: Regional cooperation between regional contributors, local and national agencies, on rights-based gender-sensitive and socially-inclusive projects on nature-based solutions for climate change adaptation is improved.</p>	<p>KRA3: KIWA Initiative's components are fully integrated through the technical task force and within SPREP related-programmes and projects</p>	<p>Activity 3.1: Support to SPREP in implementing the KIWA Initiative objectives and SPREP programme and project goals.</p>	<p>Number of SPREP technical committee meetings</p> <p>Number of technical committee reports</p> <p>Number of reports/workshops on lessons-learned on shared/common activities</p>	<p>Monitoring reports from SPREP</p>
		<p>Activity 3.2: Ensure the link between the KIWA Initiative components as a common and integrated approach</p>	<p>Number of technical task force meetings</p> <p>Number of projects implemented under the component A scaled up under the component B2</p> <p>Number of regional events/workshops lead by SPREP involving Kiwa's stakeholders</p>	<p>Monitoring reports from SPREP and IUCN</p>

Schedule 3 - Financing Plan

PART I - FINANCING PLAN

Budget (in EUR)	3.5-year project
KRA1: Capacities of PICTs to integrate nature-based solutions consideration in response to climate change adaptation and biodiversity conservation into their national and local policies are enhanced	233,000
KRA2: Support for the development and implementation of large projects under Component B2 of the KIWA Initiative is successfully provided (including feasibility studies).	189,545
KRA3: KIWA Initiative's components are fully integrated through the technical task force and within SPREP related-programmes and projects	95,000
Coordination Budget	350,000
Administrative budget (procurement, Human Resources, office costs, travels assistance, external audits...)	87,000
Indirect costs (10%)	95 455
TOTAL	1,050,000

PART II - ELIGIBLE EXPENSES

Eligible Expenses means the expense(s) relating to the component(s) of the Project as set out in Schedule 1 - (Description of the Project) and Schedule 2 - (Financing Plan), which will be incurred during the Implementation Period (with the exception of Closing Expenses).

The Project will target :

- Pacific Islands Countries and Territories (PICT) to the extent that they are eligible for Official Development Assistance, as defined in the OECD-DAC framework. The DAC List presents all the countries and territories eligible for ODA.
- French Overseas Territories that are not ODA eligible (New Caledonia and French Polynesia) for a total amount up to EUR 0,15 million.

As of the signing date, for information purposes, the Project will target 18 PICTs. The 18 countries and territories concerned are:

- Federated States of Micronesia
- Fiji
- French Polynesia
- Kiribati
- Marshall Islands
- Nauru
- New Caledonia
- Niue
- Palau
- Papua New Guinea
- Solomon Islands
- Samoa
- Timor Leste
- Tonga
- Tokelau
- Tuvalu
- Vanuatu
- Wallis-and-Futuna

Taxes, duties and any rights are included as Eligible Expenses only if Beneficiaries demonstrate they are unable to recover them.

PART III - NON-ELIGIBLE EXPENSES

The following costs are ineligible (non-exhaustive) :

- Bonuses, provisions, reserves or non-remuneration related costs. Employer's contributions to pension or other insurance funds run by the Beneficiary may only be eligible to the extent that they do not exceed the actual payments made by these schemes and that the amount provisioned does not exceed the contribution that could have been made to an external fund;
- Full-purchase cost of equipment and assets unless the asset or equipment is specifically purchased for the Project;
- Duties, taxes and charges, including VAT, that are recoverable/deductible by the Beneficiary;
- Return of capital;



- Debts and debt service charges;
- Provisions for losses, debts or potential future liabilities;
- Banking charges for the transfers from and to the Agency;
- Costs incurred during the suspension of the implementation of the Agreement;
- Costs declared by the Beneficiary under another agreement financed by the European Union, the Agency or any Contributors;
- Contribution in kind. The cost of staff assigned to the Project and actually incurred by the Beneficiary is not a contribution in kind and may be declared as direct eligible cost if it complies with the conditions set out in Schedule 3 Part II;
- Costs of purchase of land or buildings.



Schedule 4 - Conditions Precedent

The following applies to all documents delivered by the Beneficiary as a condition precedent:

- if the document which is delivered is not an original but a photocopy, the original Certified photocopy shall be delivered to the Agency;
- the final version of a document which draft was previously sent to, and agreed upon by the Agency, shall not materially differ from the agreed draft;
- documents not previously sent and agreed upon, shall be satisfactory to the Agency.

PART I – CONDITIONS PRECEDENT TO BE SATISFIED ON THE SIGNING DATE

- (A) The Signing and entry into force of the Contribution Agreement with the EU and each Contribution Arrangement with the Contributors.
- (B) Delivery by the Beneficiary to the Agency of the following documents:
 - (1) a Certified copy of the constitutional documents of the Beneficiary in full force and effect at the Signing Date;
 - (2) an original or a Certified copy of the certificate of incorporation of the Beneficiary (the equivalent of the French Extrait K-bis) dated not more than three (3) months prior to the Signing Date ;
 - (3) a Certified copy of the relevant decision(s) of the competent body(ies) of the Beneficiary approving the terms of this Agreement and authorising a specified person or persons to execute this Agreement on its behalf; and

PART II - CONDITIONS PRECEDENT TO THE FIRST DRAWDOWN

- (A) Receipt of the delegated funds from: (i) the Commission in accordance with the Contribution Agreement and (ii) each Contributor in accordance with the relevant Contribution Arrangement.
- (B) Delivery by the Beneficiary to the Agency of the following documents:
 - (1) Evidence of any filing or registration, submission or publication requirements of this Agreement and payment of any stamp duty, registration fees or similar duties in connection with this Agreement, as applicable.
 - (2) The following Project Document: the Project's Operational Manual and delivery to the Agency of:
 - (a) a Certified copy of each Project Document duly signed by each party thereto;
 - (b) evidence that all formalities required under the Project Documents for the entry into, performance and enforceability against third parties of such Project Documents have been satisfied; and
 - (c) evidence that any Authorization which the Agency considers necessary or desirable in connection with the entry into and performance of, and the transactions contemplated by, any Project Document and delivery of a Certified copy of any such Authorization.

- (3) A certificate issued by a duly authorised representative of the Beneficiary listing the person(s) authorised to sign, on behalf of the Beneficiary, this Agreement, the Drawdown requests and any certificate in connection with this Agreement and to take all other measures and/or sign all other necessary documents on behalf of the Beneficiary under this Agreement together with a specimen of the signature of each person listed in the certificate mentioned herein.
- (4) A certificate of the Account Bank certifying that the Project Account has been opened in the name of the Project and providing account details for such Project Account.
- (5) A provisional forecast of expenditure for the duration of the Project including a breakdown by geographical (ACP States, French OCTs) and sectorial (combating alien invasive species) expenses, updated on the relevant Drawdown date.
- (6) Delivery of the Agency's non-objection on the Job Description for the Project development Coordinator, on the final choice of the Project development Coordinator and on his/her contract and delivery by the Beneficiary of a signed copy of the contract.
- (7) Delivery of the Agency's non-objection of a Communication and Visibility Plan for the Project

PART III - CONDITIONS PRECEDENT FOR ALL DRAWDOWNS OTHER THAN THE FIRST DRAWDOWN

- (A) Receipt of the delegated funds from: (i) the Commission in accordance with the Contribution Agreement and (ii) each Contribution Arrangement in accordance with the relevant Contribution Arrangement.
- (B) Delivery by the Beneficiary to the Agency of the following documents:
 - (i) a certificate signed by a duly authorised representative of the Beneficiary certifying that at least eighty per cent (80%) of the Advance immediately preceding the Advance requested in the Drawdown request and one hundred per cent (100%) of the penultimate Advance have been utilised, including a detailed breakdown of the payment with respect to Eligible Expenses as well as geographical (ACPs States, French OCTs) and thematic (combating alien invasive species) focuses during the relevant period.
 - (ii) A copy of the last annual audit report of the Project account carried out by an independent and reputable auditing firm according to the conditions expressed in Clause 3.2.1(h) (*Control – Audit*);
- (8) all contracts and orders together with any plans and quotes (if applicable) previously provided to the Agency in accordance with, and as defined in, the Procurement Guidelines, in connection with the utilisation of the amounts of the Advance made available prior to the Drawdown request;
- (9) evidence, in form and substance satisfactory to the Agency, that all relevant Eligible Expenses have been paid;
- (10) the provisional forecast of expenses for the duration of the Project (per semester), including a breakdown by geographical (ACP States, French OCTs) and thematic

(combating alien invasive species) expenses, updated on the relevant Drawdown date;

- (11) a revised estimate of the Project costs as well as the Eligible Expenses for the duration of the Project, updated on the relevant Drawdown date;



Schedule 5 - Environmental and Social Commitment Plan /Environmental and Social Action Plan

Theme	Action	Calendar: Conception & Implementation	Indicators of achievement
	ENVIRONMENTAL AND SOCIAL (E&S)		
1	<p>Identify the person who will be the E&S focal person for the Project, and will notably be in charge of the reporting.</p> <p>Maintain sufficient resources and capacities in the E&S team in charge of the implementation of the Environmental and Social management System (ESMS) for the Project</p>	<p>2 months after signature</p> <p>Whole duration of the Project</p>	<p>Contact and position of the E&S focal person</p> <p>In the E&S&Gender chapter of the technical report</p>
2	<p>Implement and regularly improve the ESMS in place to ensure:</p> <ul style="list-style-type: none"> - proper evaluation, management and follow-up of the E&S risks related to the Project - compliance with applicable standards - improvement of E&S performance - compliance with AFD E&S risk management policy https://www.afd.fr/en/ressources/environmental-and-social-risk-management-policy-afd-funded-operations and especially the AFD exclusion list https://www.afd.fr/sites/afd/files/2017-10/exclusion-list-afd_0.pdf 	<p>Whole duration of the Project</p>	<p>In the E&S&Gender chapter of the technical report</p>

Theme	Action	Calendar: Conception & Implementation	Indicators of achievement
3 Applicable Standards	<p>In compliance with the AFD E&S policy, the applicable standards on the Project are:</p> <ul style="list-style-type: none"> - local laws and regulation - World Bank group E&S standards for projects with High or Substantial environmental and social impacts (A / B+ categories) - Fundamental conventions of the International Labour Organization 	Whole duration of the Project	In the E&S&Gender chapter of the technical report
4 E&S Due-Diligence	<p>For projects to be financed under Component B2, ensure the Due-Diligence steps are conducted</p> <ul style="list-style-type: none"> - E&S screening and main risk identification - Categorization - Elaboration of E&S safeguard documents, proportionate to the levels of these risks and impacts, to appropriately manage the E&S risks and comply with applicable standard: E&S evaluation in the feasibility studies, E&S impact assessment, E&S management plan, stakeholder engagement plan, grievance mechanism, resettlement action plan, external audit... 	Whole duration of the Project	In the E&S&Gender chapter of the technical report
5 Financing agreements	<p>Ensure E&S clauses are included in the financing agreements for B2 projects</p> <p>For projects financed under Component B2, with High, Substantial or Moderate environmental and social impacts (A, B+ or B categories), ensure an E&S Commitment Plan summarizing the main E&S commitments is elaborated.</p>	Whole duration of the Project	In the E&S&Gender chapter of the technical report

	Theme	Action	Calendar: Conception & Implementation	Indicators of achievement
6	E&S monitoring	<p>Ensure proper monitoring of the implementation of the environmental and social measures set out in the financing agreement and dedicated plans (ESMP, RAP, SEP ...), using documentation review, site visits.</p>	Whole duration of the project	In the E&S&Gender chapter of the technical report
7	Main E&S aspects	<p>Specific focus will be made on:</p> <ul style="list-style-type: none"> - Impact on biodiversity due to projects in ecological sensitive areas - Loss of access to resources and loss of revenue, - Physical and economical involuntary resettlement - Impact on vulnerable groups, including avoiding adverse impact on indigenous people - Land tenure - Human rights - Sexual exploitation, abuse and harassment (see action 8) - Stakeholder consultation and participation (see action 9) 	Whole duration of the Project	In the E&S&Gender chapter of the technical report

	Theme	Action	Calendar: Conception & Implementation	Indicators of achievement
8	Main E&S aspects - sexual exploitation, abuse and harassment	<p>The Project will have a zero tolerance approach towards sexual exploitation, abuse and harassment:</p> <ul style="list-style-type: none"> - Take appropriate actions to prevent sexual exploitation, abuse or harassment - Take timely action, including investigation and assessment of the credibility based on the source of the allegation, the content, and the level of detail or evidence provided, - Inform AFD in a timely manner, to report any credible suspicions of, or actual incidents of sexual exploitation, abuse or harassment against any person linked to the Project, and results of the investigation's outcome. 	Whole duration of the Project	In the E&S&Gender chapter of the technical report
9	Main E&S aspects – Stakeholder engagement	<p>The Project will promote information, consultation and participation of all stakeholders.</p> <p>All affected or interested parties will first be identified. A participative approach will then be implemented in order to identify the impacts and specific compensation measures needed, to ensure all stakeholders can participate in the definition of the Project and access to the opportunities created by the project.</p> <p>This will notably apply to coastal communities and civil society, especially local women's and indigenous peoples' organization.</p>	Whole duration of the Project	In the E&S&Gender chapter of the technical report
		GENDER		

	Theme	Action	Calendar: Conception & Implementation	Indicators of achievement
11	Gender resources	<p>Identify the person who will be the Gender focal person for the Project, and will notably be in charge of the reporting.</p> <p>Maintain sufficient resources and capacities in the Gender team in charge of the implementation of the Gender mainstreaming approach in the Project</p>	2 months after signature	Contact and position of the Gender focal person
12	Gender Mainstreaming approach	Implement and regularly improve the Gender mainstreaming approach in place	Whole duration of the Project	In the E&S&Gender chapter of the technical report

	Theme	Action	Calendar: Conception & Implementation	Indicators of achievement
13	Gender evaluation and action plan	<p>The Project will promote a gender-sensitive right-based approach.. For projects to be financed under Component B2, ensure the implementation of the following steps:</p> <ul style="list-style-type: none"> - Conduct a Gender pre-evaluation on each project to identify Gender risks, challenges and opportunities in relation with the project - Conduct a selection process based on gender criteria - Conduct a detailed Gender evaluation of gender risks, challenges and opportunities, - Define a gender action plan with resources objectives and indicators to reduce gender inequalities, ensure equal access to the opportunities created by the project, define specific actions to encourage women participation especially in the decision making process, women access to services, job, training, resources, land, finance... and ensure capacity building of the stakeholders - Monitor the implementation and the results of the gender actions, or gender action plans and gender indicators - Report notably the proportion of funded projects including a gender equality approach and the number of government and civil society stakeholders, whose capacities on Gender have been strengthened (women/men) 	Whole duration of the Project	In the E&S&Gender chapter of the technical report
		REPORTING		

	Theme	Action	Calendar: Conception & Implementation	Indicators of achievement
14	E&S & Gender reporting	<p>For projects to be financed under Component B2, include an E&S risks assessment chapter and a Gender evaluation chapter in the project presentation notes, describing:</p> <ul style="list-style-type: none"> - The due-diligence conducted/to be conducted, summarizing main E&S risks and management measures planned, in order to manage E&S risks and comply with applicable standard. - The gender risks or opportunities identified, and when applicable the gender evaluation and actions or action plan defined in order to reduce gender inequalities, ensure equal access to the opportunities created by the project 	<p>Anytime during the implementation period</p> <p>For each submitted project document (concept note</p>	<p>Each project document (Kiwa Initiative's concept note, AFD's internal projet documents...)</p>
15	E&S & Gender reporting	<p>Provide a semi-annual E&S & Gender monitoring report including:</p> <ul style="list-style-type: none"> - Implementation of the ESCP - E&S & Gender resources and capacities - Implementation and improvements of the E&S management system and Gender mainstreaming approach <p>On the B2 projects supported by the Project:</p> <ul style="list-style-type: none"> - Status of the projects and evolution of E&S risks and impacts - Compliance with E&S commitments and implementation of the management plans (ESMP, RAP, SEP, GAP ...) Monitoring of E&S & gender indicators - E&S major events (fatalities, grievances, strikes, pollutions, conflicts with communities, negative media attention, sexual exploitation, abuse and harassment ...) 	<p>Semi-annual and annual</p>	<p>E&S & Gender monitoring report</p>

Schedule 6 - Form of Follow-up report of the Project Indicators

Annual, semi-annual and final reports are intended to be presented by the Beneficiary to the Agency. All financial accounts and statements will be expressed in Euros. The following template covers each component of the Kiwa Initiative and as such, will be used by the Beneficiary. A more detailed indicative template will be provided by the Agency. The follow-up report will be made up of a technical part and a financial part:

1. Technical Report

a) Context of the project (key challenges, constraints)

This part will include an analysis of the key challenges and constraints (internal and external) which may influence the success of the Project as a whole, as well as explanations of variance between expected and actual results, lessons learned and mitigation measures. It will also describe the efforts to ensure sustainability of results achieved and specify whether the Project is on track to achieve the Project expected outputs, outcomes and impact.

b) Logical framework monitoring

The annual result-based technical report will provide an evidence-based assessment of progress on or toward the achievement of expected outputs, outcomes and impacts. This report will provide evidence of performance using actual data on output, outcome and impact level performance indicators, identified in the indicative logical framework of the Project described in Schedule 2 (*Project Description*), in comparison to baselines and targets. It will also describe the efforts to ensure sustainability of results achieved and specify whether the Project is on track to achieve the expected outputs, outcomes and impacts.

c) Specific due-diligence issues as set out in Schedule 5 including:

An assessment of how the gender equality strategy, if any, is being implemented by the Project and how it is contributing to the achievement of expected Project results.

Reporting on the E&S risks related to the Project, and notably the implementation of the environmental and social processes and requirements of Beneficiaries and summary of the E&S risks related to the funded projects.

A summary of what governance and human rights issues affect the Project and description of how these considerations have been taken into account to address the issues in the design, implementation, results and monitoring of the Project.

2. Financial Report

- a) Table summarizing initial budget by component, commitments and annual payments. This table shall be set out as specified in Schedule 3 (*Financing Plan*).
- b) Table updated for actual and committed costs and expenses by component. This table shall be set out as specified in Schedule 3 (*Financing Plan*).
- c) Geographical (ACP countries, French OCTs) and thematic (combating invasive species) focuses
- d) Highlighting of discrepancies

Final reporting

A template incorporating all elements of 1 and 2 above will be used for the final technical report and the final financial report.



Schedule 7 - Information that the Agency is authorized expressly to disclose on the Agency's Website (in particular on its open data platform)

1. Information relating the Project

- Number and name in AFD's book;
- Description;
- Operating sector ;
- Place of implementation ;
- Expected project starting date ;
- Expected end of Implementation Period Date; and
- Status of implementation updated on a semi-annual basis.

2. Information relating to the financing of the Project

- Kind of financing (loan, grant, co-financing, delegated funds);
- Principal amount of the Grant;
- Total amount drawn on annual basis;
- Drawdown amounts planning on a three year basis; and
- Amount of the Grant which has been drawn down (updated as the implementation of the Project is carried out).

3. Other information

- Transaction information notice attached to this Schedule; and
- Performance sheet (summary of the evaluation done based on evaluation principals given by the Development Assistance Committee of OECD) attached to this Schedule.

Schedule 8 - List of undertakings applicable to the Beneficiary under the delegation of funds by the European Union¹

1. Conflict of interests

- 1.1. The Beneficiary shall refrain in accordance with its regulations and rules, from any action which may give rise to a conflict of interests.
- 1.2. There is a conflict of interests when the impartial and objective exercise of the functions of any person implementing the Agreement is compromised.

2. Data protection

The Beneficiary shall ensure appropriate protection of personal data. Personal data means any information relating to an identified or identifiable natural person. Personal data shall be:

- processed lawfully, fairly and in a transparent manner in relation to the data subject;
- collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes;
- adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed;
- accurate and, where necessary, kept up to date;
- kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; and
- Processed in a manner that ensures appropriate security of the personal data.

3. Communication and visibility

- 3.1. The Beneficiary shall implement the communication and visibility plan of the Project, as amended by agreement where appropriate.
- 3.2. Unless the Agency or the Commission requests or agrees otherwise, the Beneficiary shall take all appropriate measures to publish the fact that the Project has received funding from the European Union. Information given to the press and to the contractors, as well as related publicity material, official notices, reports and publications shall acknowledge that the Project was carried out "*with funding by the European Union*" and shall display the European Union logo (twelve yellow stars on a blue background) in an appropriate way. Publications by the Beneficiary pertaining to the Project, in whatever form and whatever medium, including the internet, shall carry the following disclaimer: "*This document was produced with the financial assistance of the European Union. The views expressed herein can in no way be taken to reflect the official opinion of the European Union.*" Such measures shall be carried out in accordance with the Communication and Visibility Manual published by the European Commission or with any other guidelines agreed between the European Commission and the Agency.
- 3.3. If during the implementation of the Project, equipment, vehicles or major supplies are purchased using European Union funds, the Beneficiary shall display appropriate acknowledgment on such vehicles, equipment or major supplies, including the display of the European Union logo (twelve yellow stars on a blue background). Where such display could

¹ This list of undertakings will have to be included in the On-Granting Agreements to be signed with Final Beneficiaries.



jeopardise the Beneficiary's privileges and immunities or the safety of the Beneficiary's staff, the Beneficiary shall propose appropriate alternative arrangements. The acknowledgment and the European Union logo shall be such a size and prominence as to be clearly visible in a manner that shall not create any confusion regarding the identification of the Project as an activity of the Beneficiary, the ownership of the equipment, vehicles or major supplies by the Beneficiary.

- 3.4. In case the equipment, vehicles or remaining major supplies purchased using European Union funds have not been transferred to the Beneficiary when submitting the General Implementation Report, the visibility requirements as regards this equipment, vehicles or major supplies (in particular display of the European Union logo) shall continue to apply between the submission of the final report and the end of the Project, if the latter is longer.
- 3.5. Unless otherwise provided for, if disclosure risks threatening the Beneficiary or harming its interests, the Beneficiary agrees that the Commission publishes in any form and medium, including on its internet sites, the name and address of the Beneficiary, the purpose and amount of the European Union contribution.
- 3.6. The Beneficiary shall ensure that reports, publications, press releases and updates relevant to the Project are communicated to the following addresses *Charles Trottmann, Head of the Three Oceans Department, 5 rue Roland Barthes 75 598 Paris Cedex 12 - France* when they are issued.
- 3.7. The Agency and the Beneficiary will consult immediately and strive to remedy any detected shortcoming in implementing the visibility requirements set out in this clause and without prejudice to measures the Agency or the European Union may take in case of substantial breach of an obligation.

4. Ownership, rights to use results and transfer of equipment

Right to use

- 4.1. Ownership of the results of the Project is not conferred on the Commission or the Agency. Notwithstanding the provisions subject to article 9.8 (*Confidentiality - Disclosure of information*) of the Agreement, the Beneficiary shall grant, and act to ensure that the third party concerned (contractors) grant the Agency and/or the Commission the right to use free of charge those results, including reports and any related documents which are subject to industrial or intellectual property rights.
- 4.2. Where the results mentioned in section 4.1 include pre-existing rights and the Beneficiary cannot warrant the Agency and/or the Commission the right to use such results, the Beneficiary shall inform in writing the Agency and the Commission.

Transfer

- 4.3. The equipment, vehicles and remaining major supplies purchased with the European Union contribution disbursed by the Agency in the framework of the Project shall be transferred to the Beneficiary, at the latest when submitting the final report.
- 4.4. The documentary proof of those transfers shall not be presented with the final reports, but shall be kept for the verification for the duration and along with the documents mentioned in section 5.2 below.

- 4.5. By way of derogation from section 4.4, the equipment, vehicles and remaining major supplies purchased with the European Union contribution disbursed by the Agency in the framework of the Project which continue after the end of the implementation period may be transferred at the end of the Project. The Beneficiary shall inform the Agency on the use of the equipment, vehicles and remaining major supplies in the General Implementation Report.

5. Accounts and archiving

Accounting

- 5.1. The Beneficiary shall keep accurate and regular records and accounts of the implementation of the Project. The accounting regulations and rules of the Beneficiary shall apply, provided that these regulations and rules conform to internationally accepted standards. Financial transactions and financial statements shall be subject to the internal and external auditing procedures laid down in the regulations and rules of the Beneficiary.

Archiving

- 5.2. For a period of five years from the termination date of the Agreement as set out in article 11.1 (*Entry into Force and Duration*) of the Agreement and in any case until any on-going audit, verification, appeal, litigation or pursuit of claim or investigation by the European Anti-Fraud Office (OLAF), if notified to the Participant, has been disposed of, the Beneficiary shall keep and make available to the Agency and/or the European Union all relevant financial information in its original form or in the form of a copy relating to the Agreement, the Project and any public contract concluded under the Agreement.

6. Access and financial checks

- 6.1. The Beneficiary allows the Agency, the Commission and the European Court of auditors, or any authorised representatives to conduct desk reviews and on-the-spot checks on the use made of European Union contribution (including procedures for the award of procurement contracts and grants) on the basis of supporting accounting documents and any other documents related to the financing of the Project.
- 6.2. The Beneficiary agrees that OLAF may carry out investigations, including on-the-spot checks, in accordance with the provisions laid down by European Union law for the protection of the financial interests of the European Union against fraud, corruption and any other illegal activity and, where applicable, any administrative cooperation arrangements concluded between OLAF and the Beneficiary anti-fraud bodies.
- 6.3. The Beneficiary agrees that the execution of this Agreement may be subject to review by the European Court of Auditors when the latter carries out an audit of the implementation of the European Union's expenditure by the European Commission. In this case, the Beneficiary provides the European Court of Auditors with access to the information it needs to fulfil its mission.



- 6.4. To that end, the Beneficiary shall provide the Agency, officials of the Commission, OLAF and the European Courts of Auditors and their authorised agents, upon request, information and access to any documents and computerised data concerning the technical and financial management of operations financed under the Agreement, as well as grant them access to sites and premises at which such operations are carried out. The Parties shall take all necessary measures to facilitate these checks in accordance with its regulations and rules. The documents and computerised data may include information which the Beneficiary considers confidential in accordance with its own established regulations and rules or as governed by contractual agreement. Such information once provided to the Agency, the Commission, OLAF, the European Courts of Auditors, or any other authorised representatives, shall be treated in accordance with European Union confidentiality rules. Documents must be accessible and filed in a manner permitting checks, the Final Beneficiary being bound to inform the Agency, the Commission, OLAF or the European Court of Auditors of the exact location at which they are kept. Where applicable, the parties may agree to send copies of such documents for a desk review.
- 6.5. In case of the Commission or their authorised agents, if the Beneficiary is an international organisation, verifications shall cover on-the-spot checks and desk-reviews and follow any verification provisions agreed with the Commission. If the Beneficiary is not an international organisation an investigation or audit may be performed.
- 6.6. The Agency and/or the Commission shall inform the Beneficiary of the planned on-the-spot missions by agents appointed by the Commission in due time in order to ensure adequate procedural matters are agreed upon in advance.

7. Ex-post publication of information on contractors

- 7.1. The Beneficiary shall publish, on an annual basis, on its internet site, the following information on procurement contracts exceeding fifteen thousand euros (EUR 15.000): title of the contract/project, nature and purpose of the contract/project, name and locality of the contractor and amount of the contract/project. The term "locality" shall mean the address for legal persons and the region on NUTS 2² level, or equivalent, for natural persons. This information shall not be published for scholarships paid to natural persons and other direct support paid to natural persons in most need. This information shall be published with due observance of the requirements of confidentiality security and in particular the protection of personal data.
- 7.2. The Beneficiary shall provide to the Agency and the Commission the address of the internet site where this information can be found and authorises the publication of such address on both the Agency and the Commission' internet sites.

8. Central exclusion Database

- 8.1. The Beneficiary informs the Agency if, in relation to the implementation of the Project, it has found that a third party is subject of a judgement which has the force of res judicata for fraud, corruption, involvement in a criminal organisation, money laundering or any other illegal activity detrimental to the European Union financial

² Nomenclature of Territorial Units for Statistics, available at: <http://ec.europa.eu/eurostat/ramon> - May 2015



interests. The information shall be transmitted using the ad-hoc template³, which shall be sent to the Agency with an indication of the duration of the exclusion, if any, decided on the basis of the judgement which is being notified. If available to the Beneficiary, a copy of the definitive judgement and where available and applicable of the necessary documents establishing the legal existence of the entity concerned shall also be provided. The Agency shall provide this information to the Commission which shall introduce this information in the Central Exclusion Database. The Beneficiary shall inform the Agency when it becomes aware that transmitted needs to be rectified updated or removed. The Beneficiary shall ensure that the entity concerned is informed that its data was transmitted to the Agency and the Commission and may be included in the Central Exclusion Database. These requirements cease upon the end of the implementation period of the Project.

- 8.2. Without prejudice to the power of the European Commission to exclude an entity from future procurement contracts and grants financed by the EU, the Beneficiary may impose financial penalties on contractors and grant beneficiaries according to its own Regulations and Rules ensuring, where applicable, the right of defence of the contractor or grant beneficiary.

9. Obligations regarding information and reporting

- 9.1. According to article 7.1 (*Progress report*) of the Agreement, the Beneficiary shall provide the Agency with full information on the implementation of the Project by submitting progress report(s) and a General Implementation Report in accordance with the provisions below. These reports shall consist of a narrative part and a financial part.
- 9.2. Every report, whether progress or final, shall provide a complete account of all relevant aspects of the implementation of the Project for the period covered. The report shall describe the implementation of the Project according to the activities envisaged in Schedule 2 (*Description of the Project*) as well as the degree of achievement of its results as measured by corresponding indicators. The report shall be laid out in such a way as to allow monitoring of the objective(s), the means envisaged and employed. The level of detail in any report shall match that of Schedules 2 and 3 of this Agreement.
- 9.3. The progress report(s) shall directly relate to the Agreement and shall at least include:
- a) summary and context of the Project;
 - b) actual results: follow up of Project's indicators;
 - c) activities carried out during the reporting period;
 - d) information on the implementation of the visibility and communication plan and any additional measures taken to identify the European Union as source of financing;

³

Annex C8f at DEVCO Companion published at: <http://ec.europa.eu/europeaid/companion>



- e) information on the implementation of the visibility and communication plan and any additional measures taken to identify the European Union as source of financing
- f) information on the implementation costs incurred as well as legal commitments entered into by the Beneficiary during the reporting period;
- g) a summary of controls carried out, and available final audit reports; ; Where errors and weaknesses in systems were identified, analysis of their nature and extent as well as information on corrective measures taken or planned shall also be provided;
- h) work plan for the following period.

9.4. The General Implementation Report shall include the following points covering the entire period of implementation:

- a) all the information requested in the progress reports;
- b) a summary of the Project's receipts, payments received and of the eligible costs incurred. If relevant, details of transfers of equipment, vehicles, and remaining major supplies mentioned in section 3 (*Communication and visibility*) above.
- c) In the case where a leverage effect indicator is included in the Contribution Agreement, an update of this leverage effect for the entire financings, with respect to the following methodology [use the calculation rule referred to in the delegation agreement] ;
- d) the exact link to the webpage where, according to section 7.1 of this Schedule, information on grant beneficiaries and contractors is available;
- e) If relevant, details of transfers of equipment, vehicles, and remaining major supplies mentioned in section 3 (*Communication and visibility*) of this Annex.

Schedule 9 - Non-exhaustive list of environmental and social documents which the Beneficiary permits to be disclosed in connection with ES Grievance Management Procedures

- Environmental and social chapters of the feasibility study
- Environmental and Social Management System (ESMS)
- Environmental and Social Commitment Plan (ESCP)
- Environmental and Social Safeguard documents elaborated on the projects:
- Environmental and Social Impact Assessment (ESIA)
- Environmental and Social Management Plan (ESMP)
- Resettlement Action Plan (RAP)
- Stakeholder Engagement Plan (SEP)
- E&S&Gender chapter of the technical monitoring reports



Schedule 10 - Form of the Drawdown Request

To:	[XXX] Address :
Cc:	[XXX]

Date :

Madam, Sir,

We refer to the Financing Agreement n° [●] entered into between the Beneficiary and the Agency, dated [●].

Capitalised words and expressions used but not defined herein have the meanings given to them in the Financing Agreement.

According to the Project and the Financing Agreement, the Beneficiary requests a drawdown of the funds of the Grant for a total amount of [●] EUR, to be made upon validation and receipt of the Drawdown request.

This Drawdown request is linked with the following project numbers in AFD's internal information system:

- Number [●] for an amount of [●] EUR

- Number [●] for an amount of [●] EUR

(...)

For the first drawdown request only: in sending this drawdown request, we certify that all Conditions Precedent specified in Schedule 3 – Part II of the Financing Agreement have been fulfilled.

For all drawdown requests other than the first : in sending this drawdown request, we certify that all Conditions Precedent specified in Schedule 3 – Part III of the Financing Agreement have been fulfilled. We also certify that one hundred per cent (100%) of both the penultimate Advance and the previous Advance have been used.

To this end, we provide a detailed breakdown of the sums paid in respect of the Eligible Expenses in the relevant period as set out in Schedule 3.

Such drawdown is made in accordance with the terms of the Financing Agreement and will be delivered on the following bank account:

Bank:	
Account holder:	
IBAN number:	
Swift code (BIC):	



AFD	
Name:	[XXX]
Position:	[XXX]
Adresse :	[XXX]
E-mail:	[XXX]



Schedule 11 - Declaration of Integrity

Reference name of the contract: _____ (The "Contract")

To: _____ (The "Contracting Authority")

- 1) We recognise and accept that *Agence Française de Développement* ("AFD") only finances projects of the Contracting Authority subject to its own conditions which are set out in the Financing Agreement which benefits directly or indirectly to the Contracting Authority. As a matter of consequence, no legal relationship exists between AFD and our company, our joint venture or our suppliers, contractors, subcontractors, consultants or subconsultants. The Contracting Authority retains exclusive responsibility for the preparation and implementation of the selection process and performance of the Contract.
- 2) We hereby certify that neither we nor any other member of our joint venture or any of our suppliers, contractors, subcontractors, consultants or subconsultants are in any of the following situations:
 - 2.1) Being bankrupt, wound up or ceasing our activities, having our activities administered by the courts, having entered into receivership, reorganisation or being in any analogous situation arising from any similar procedure;
 - 2.2) Having been:
 - a. convicted within the past five years by a court decision, which has the force of *res judicata* in the country where the Contract is implemented, of fraud, corruption or of any other offense committed during a selection process or performance of a contract (in the event of such conviction, you may attach to this Statement of Integrity supporting information showing that this conviction is not relevant in the context of this Contract);
 - b. subject to an administrative sanction within the past five years by the European Union or by the competent authorities of the country where we are constituted, for fraud, corruption or for any other offense committed during a selection process or performance of a contract (in the event of such sanction, you may attach to this Statement of Integrity supporting information showing that this sanction is not relevant in the context of this Contract);
 - c. convicted within the past five years by a court decision, which has the force of *res judicata*, of fraud, corruption or of any other offense committed during the selection process or performance of an AFD-financed contract;
 - 2.3) Being listed for financial sanctions by the United Nations, the European Union and/or France for the purposes of fight-against-terrorist financing or threat to international peace and security; For information purposes only, the Contracting Authority is providing the following references: For the lists maintained by the United Nations, the following website may be consulted: <https://www.un.org/securitycouncil/fr/content/un-sc-consolidated-list>; For the lists maintained by the European Union, the following website may be consulted: https://eeas.europa.eu/headquarters/headquarters-homepage/8442/consolidated-list-sanctions_fr; For the lists maintained by France, the following website may be consulted: <https://www.tresor.economie.gouv.fr/services-aux-entreprises/sanctions-economiques/dispositif-national-de-gel-des-avoirs>



- 2.4) Having been subject within the past five years to a contract termination fully settled against us for significant or persistent failure to comply with our contractual obligations during contract performance, unless this termination was challenged and dispute resolution is still pending or has not confirmed a full settlement against us;
- 2.5) Not having fulfilled our fiscal obligations regarding payments of taxes in accordance with the legal provisions of either the country where we are constituted or the Contracting Authority's country;
- 2.6) Being subject to an exclusion decision of the World Bank and being listed on the website <http://www.worldbank.org/debarr> (in the event of such exclusion, you may attach to this Statement of Integrity supporting information showing that this exclusion is not relevant in the context of this Contract);
- 2.7) Having created false documents or committed misrepresentation in documentation requested by the Contracting Authority as part of the selection process of this Contract.
- 3) We hereby certify that neither we, nor any of the members of our joint venture or any of our suppliers, contractors, subcontractors, consultants or subconsultants are in any of the following situations of conflict of interest:
- 3.1) Being an affiliate controlled by the Contracting Authority or a shareholder controlling the Contracting Authority, unless the stemming conflict of interest has been brought to the attention of AFD and resolved to its satisfaction;
- 3.2) Having a business or family relationship with a Contracting Authority's staff involved in the selection process or the supervision of the resulting Contract, unless the stemming conflict of interest has been brought to the attention of AFD and resolved to its satisfaction;
- 3.3) Being controlled by or controlling another bidder or consultant, or being under common control with another bidder or consultant, or receiving from or granting subsidies directly or indirectly to another bidder or consultant, having the same legal representative as another bidder or consultant, maintaining direct or indirect contacts with another bidder or consultant which allows us to have or give access to information contained in the respective applications, bids or proposals, influencing them or influencing decisions of the Contracting Authority;
- 3.4) Being engaged in a consulting services activity, which, by its nature, may be in conflict with the assignments that we would carry out for the Contracting Authority;
- 3.5) In the case of the Contract involving my purchase of goods, works or plants:
- i. Having prepared or having been associated with a consultant who prepared specifications, drawings, calculations and other documentation to be used in the selection process of this Contract;
 - ii. Having been recruited (or being proposed to be recruited) ourselves or any of our affiliates, to carry out works supervision or inspection for this Contract;
- 4) If we are a state-owned entity, and to compete in a selection process, we certify that we have legal and financial autonomy and that we operate under commercial laws and regulations.
- 5) We certify that the origin of the funds of the company legal entity and the company founder(s) and chief executive officer is not due to a crime or misdemeanour, including any act or omission intended to damage the European Union budget and involving (i) the use or

presentation of false, inaccurate or incomplete statements or documents, which has as its effect the misappropriation or wrongful retention of funds or any illegal reduction in resources of the general budget of the European Union; (ii) the non-disclosure of information with the same effect; and (iii) misappropriation of such funds for purposes other than those for which such funds were originally granted .

6) We undertake to bring to the attention of the Contracting Authority, which will inform AFD, any change in situation with regard to points 2 to 5 here above and will take all necessary measures to remedy the situation.

7) In the context of the selection process and performance of the corresponding contract:

7.1) We have not and we will not engage in any dishonest conduct (act or omission) deliberately intended to deceive others, to intentionally conceal items, to violate or vitiate someone's consent, to make them circumvent legal or regulatory requirements and/or to violate their internal rules in order to obtain illegitimate profit;

7.2) We have not and we will not engage in any dishonest conduct (act or omission) contrary to our legal or regulatory obligations or our internal rules in order to obtain illegitimate profit;

7.3) We have not promised, offered or given and we will not promise, offer or give, directly or indirectly to (i) any Person who holds a legislative, executive, administrative or judicial mandate within the State of the Contracting Authority regardless of whether that Person was nominated or elected, regardless of the permanent or temporary, paid or unpaid nature of the position and regardless of the hierarchical level the Person occupies, (ii) any other Person who performs a public function, including for a State institution or a State-owned company, or who provides a public service, or (iii) any other person defined as a Public Officer by the national laws of the Contracting Authority's country, an undue advantage of any kind, for himself or for another Person or entity, for such Public Officer to act or refrain from acting in his official capacity;

7.4) We have not promised, offered or given and we will not promise, offer or give, directly or indirectly to any Person who occupies an executive position in a private sector entity or works for such an entity, regardless of the nature of his/her capacity, any undue advantage of any kind, for himself or another Person or entity for such Person to perform or refrain from performing any act in breach of its legal, contractual or professional obligations;

7.5) We have not and we will not engage in any practice likely to influence the contract award process to the detriment of the Contracting Authority and, in particular, in any anti-competitive practice having for object or for effect to prevent, restrict or distort competition, namely by limiting access to the market or the free exercise of competition by other undertakings;

7.6) Neither we nor any of the members of our joint venture or any of our suppliers, contractors, subcontractors, consultants or subconsultants shall acquire or supply any equipment nor operate in any sectors under an embargo of the United Nations, the European Union or France;

7.7) We commit ourselves to comply with and ensure that all of our suppliers, contractors, subcontractors, consultants or subconsultants comply with international environmental and labour standards, consistent with laws and regulations applicable in the country of implementation of the Contract, including the fundamental conventions of the International Labour Organisation (ILO) and international environmental treaties.



Moreover, we shall implement environmental and social risks mitigation measures when specified in the environmental and social commitment plan (ESCP) provided by the Contracting Authority.

7.8) In the context of the project financed through the Contracting Authority, we undertake to bring to the attention of the Contracting Authority, which will inform AFD, any acts in relation to sections 7.1 to 7.7 above which we become aware or suspect that any third party has committed in relation to the project, and to take all necessary measures to remedy the situation.

- 8) We, as well as members of our joint venture and our suppliers, contractors, subcontractors, consultants or subconsultants authorise AFD to inspect accounts, records and other documents relating to the selection process and performance of the contract and to have them audited by auditors appointed by AFD.

[Signature Page Follows]

Name:

In the capacity of:

Duly empowered to sign in the name and on behalf of⁴:

Signature:

Dated:

⁴ In case of joint venture, insert the name of the joint venture. The person who will sign the application, bid or proposal on behalf of the applicant, bidder or consultant shall attach a power of attorney from the applicant, bidder or consultant.



STRATEGIC AND FINANCIAL PARTNERSHIP AGREEMENT

BETWEEN:

Secretariat of the Pacific Regional Environment, having its office at Vailima, Apia, Samoa, and listed in Samoa as an International Organisation under the Diplomatic Privileges and Immunities (Declared International Organisations) Amendment Order 2014 represented by Mr Kosi LATU, in his capacity as Director General, duly authorised for the purposes hereof,

(hereinafter the “**Beneficiary**”),

OF THE FIRST PART,

AND

Agence Française de Développement, a French public utility company (*établissement public*) having its registered office at 5 Rue Roland Barthes, 75598 Paris Cedex 12, registered with Paris Trade and Companies Registry under number 775 665 599, represented by Mr Philippe RENAULT, in his/her capacity as Regional director for the Pacific, duly authorised for the purposes hereof,

(hereinafter the “**Agency**”),

OF THE SECOND PART,

(collectively referred to as the “Parties” and individually as a “Party”).



RECITALS:

The Beneficiary is the regional organisation established by the Governments and Administrations of the Pacific charged with protecting and managing the environment and natural resources of the Pacific. The head office is based in Apia, Samoa with about 100 staff. There is also a SPREP office in Fiji with four staff as well as SPREP Officers stationed in the Federated States of Micronesia, Republic of the Marshall Islands, Solomon Islands and Vanuatu. SPREP has an annual budget of USD \$29 million in 2018.

SPREP's mandate is to promote cooperation in the Pacific region and provide assistance in order to protect and improve its environment and to ensure sustainable development for present and future generations.

SPREP has 21 Pacific island member countries and territories (American Samoa, Cook Islands, Federated States of Micronesia, Fiji, French Polynesia, Guam, Kiribati, Marshall Islands, Nauru, New Caledonia, Niue, Northern Marianas, Palau, Papua New Guinea, Samoa, Solomon Islands, Tokelau, Tonga, Tuvalu, Vanuatu and Wallis & Futuna) and 5 developed countries (Australia, France, New Zealand, United Kingdom and United States of America) with direct interests in the region.

The Agency is a public utility company and a financial institution. It is part of France's official public development aid scheme, further to a mission entrusted to it by the French Ministry of Europe and Foreign Affairs, the French Ministry of Economy and Finance, and the French Ministry of French Overseas Territories.

Its mission contributes towards the Sustainable Development Goals (SDGs). The Agency operates in more than sixty countries in Africa, the Pacific, Asia, the Caribbean, the Indian Ocean, the Mediterranean and Latin America as well as in the French overseas territories. It has a network of approximately sixty agencies and offices throughout the world. It finances projects in many different sectors of the economy as well as health, education and environmental projects using various methods (subsidies, loans, etc.). These projects aim to introduce sustainable improvements to the living conditions of the people in these countries. The Agency provides funding to governments, public and private companies, the finance sector, local authorities and associations. Over the past few years, the Agency has also built up close relationships with the various private and public international aid bodies, both long-established ones and new arrivals, in the Global North and the Global South, in order to create synergies enhancing the impact of its work, based on open relationships and dialogue.

The "Project" is to support the organization of the 10th regional Conference on biodiversity and Protected Areas in the Pacific. The tenth edition of the Conference envisions producing a renewed framework for nature conservation and protected areas for the region. A ministerial segment will define the new objectives for biodiversity conservation and will feed in the work program of the Convention on post-2020 biological diversity, for the Pacific. AFD is invited to supporting the organization of the conference up to 50k€ to foster the use of French language and help in the digitalization of the conference due to the COVID-19 pandemic.

Following the opening of the Agency's mandate to PICTs regarding adaptation to climate change and biodiversity conservation in February 2018; the setting up of a Pacific regional office; the implementation of the "Kiwa Initiative" which was announced by President Macron in December 2017, the Agency's participation to the conference as a technical and financial partner is fully aligned with its new strategy for the Pacific Ocean (2019-2023) and its mandate.



Pursuant to decision taken by the Partnership Committee (*Comité des Partenariats* or *COPAR*)¹ on 06th april 2020, the Agency agreed to grant the Beneficiary a financial contribution on the terms and conditions set out below.

NOW, THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:

1. DEFINITIONS

Capitalised terms used in the Agreement (including in the above recitals and the appendices hereto) shall have the meaning assigned to them in Appendix 1 (*Definitions*) or the meaning given elsewhere in the Agreement.

2. PURPOSE OF THE AGREEMENT

The purpose of this Agreement is to set out the terms of a partnership between the Agency and the Beneficiary with a view to supporting initiatives undertaken by the Beneficiary in accordance with the Project description set out in Appendix 2 (*Project Description*).

3. AMOUNT AND ALLOCATION OF THE FINANCIAL CONTRIBUTION

3.1 Amount

In 2020, the Agency shall make available to the Beneficiary and the latter accepts a financial contribution of a maximum amount of 50,000 EUR (fifty thousand euros).

3.2 Allocation

The Beneficiary shall use the entire financial contribution to finance the Project, excluding all kinds of taxes, duties and fees, in accordance with the Project description set out in Appendix 2 (*Project Description*) and the Provisional Budget set out in Appendix 3 (*Provisional Budget*).

The purpose of the financial contribution is to finance net expenses without profit margin, such expenses being determinable, supported by documents and corresponding to the actual cost incurred rather than a lump sum.

This allocation constitutes an essential and material condition of the granting of the financial contribution. Accordingly, in the event that the Beneficiary uses the financial contribution for any purpose other than the agreed purpose or is unable to respect the terms of this allocation, the Agency reserves the right to terminate the Agreement in accordance with the provisions of Clause 11 (*Termination*).

4. TERMS AND PLACE OF PAYMENT OF THE FINANCIAL CONTRIBUTION

4.1 Request for payment

Subject to compliance with the terms and conditions set out in Clause 3.2 (*Allocation*), the financial contribution shall be paid to the Beneficiary in a single instalment upon presentation of a valid request for payment issued by the Beneficiary to the budget unit of the Three Ocean Department, AFD.

¹ Le cas échéant.



4.2 Terms of payment

a) Payment of the funds

The Beneficiary undertakes to open a special account for the Project, in the name of the Project, to be used solely to deposit payments and finance the expenses of the Project. All operations relating to the Project must pass through this special bank account for the Project.

The entire financial contribution will be made available to the Beneficiary in a single instalment at the signing of the Agreement.

The Beneficiary is required to provide a list of provisional expenditure with its request for payment, specifying the budget items as set out in Appendix 3 (*Provisional Budget*) from which this expenditure will be deducted for the duration of the Project.

The Beneficiary undertakes to provide the Agency with all documents proving that the entire payment has been used at the date on which the overall progress report is delivered to the Agency, as referred to in Clause 9.1.

b) Deadline for use of the funds

The Beneficiary undertakes to ensure that all funds paid are used by no later than 28th February 2021.

Any part of the financial contribution that has not been used by this date will be automatically cancelled.

c) Document retention

The Beneficiary undertakes to keep the original supporting documents, such as records and paid invoices, in its records, to make them available to the Agency for a period of ten (10) years as of the Project technical Completion Date and to provide the Agency with a duplicate or photocopy thereof certified as true to the original at the Agency's request.

d) Proof of use of the funds

The Agency may require the Beneficiary to repay any sums that have not been used by the Beneficiary and any sums for which the Beneficiary has failed to provide sufficient proof or any proof of the use thereof. The Beneficiary shall repay the relevant sums at the Agency's written request and undertakes to make the repayment within thirty (30) business days following the date on which the said written request was sent.

e) Applicable exchange rate

If any expenses of the Project are denominated in a currency other than Euro, the Beneficiary shall convert the invoice amount into the equivalent amount in Euros using:

- the Reuters screen exchange rate for the applicable currency on the payment date of the relevant invoice.



4.3 Payment deadline

The fund payment deadline is 29th November 2020. After this date, no payment may be made.

4.4 Place of payment

The Agency will transfer the funds to the special bank account specified by the Beneficiary for this purpose:

Titulaire du compte : Pacific Islands Conference(SPREP)

Domiciliation: Bank of the South Pacific, Samoa

Bank Code:

Branch Code :

Numéro de compte : 2000682209

Clé RIB:

IBAN:

Swift Code or Bank Identification Code: BOSPWSWS

The Beneficiary may choose whether the funds are to be transferred (i) in Euros to an account opened in Euros, or (ii) in the official currency of the Beneficiary's territory to an account opened in the said currency, using the exchange rate on the payment date, or (iii) in a convertible currency to an account opened in the said currency.

The Beneficiary shall bear any commission or charges applicable to the funds transfer between the Paris market and any other market determined in agreement with the Agency. Any charges paid by the Agency will be deducted from the available balance of the financial contribution.

5. REPRESENTATIONS

The Beneficiary makes the representations set out in this Clause 5 (*Representations*) to the Agency.

5.1 Status

The Beneficiary is an intergovernmental agency validly formed under the laws of the country in which its registered office is located.

The Beneficiary has the legal capacity required to validly own its assets and to operate its business as currently operated. Its articles of association comply with applicable statutory provisions.

5.2 Powers and capacity

The Beneficiary has the capacity to sign and perform the Agreement, to fulfil the obligations arising thereunder and to implement and manage the Project financed by the financial contribution. The Beneficiary has completed all formalities required in this respect.

5.3 Binding nature of the Agreement

The Beneficiary's obligations under the Agreement are not in breach of any laws or regulations applicable in the Beneficiary's country. They are binding on the Beneficiary and may be enforced by the courts.



5.4 Lawful source of funds, Acts of Corruption, Fraud, Anti-Competitive Practices

The Beneficiary represents that:

- (i) its own funds and the funds other than public funds invested in the Project do not have an Unlawful Source; and
- (ii) The Project (in particular the negotiation, award and performance of any contract financed through the financial contribution) has not given rise to any Act of Corruption, Fraud or Anti-Competitive Practices.

6. UNDERTAKINGS

The undertakings given in this Clause 6 (*Undertakings*) shall take effect as of the date on which the Agreement is signed and shall continue to apply throughout the term of the Agreement.

6.1 Legal existence

The Beneficiary undertakes to maintain its legal existence and its general business activities and to inform the Agency of any changes to its legal form, registered office, objects or lines of business.

6.2 Authorisations

The Beneficiary undertakes to promptly obtain, comply with and do whatever may be necessary to maintain in full force and effect any and all Authorisations required by law or under applicable regulations to enable it to fulfil its obligations under the Agreement or to ensure the lawfulness, validity, enforceability or admissibility as evidence thereof.

6.3 Compliance with the law and fulfilment of obligations

The Beneficiary undertakes to comply with all laws and regulations applicable to it or to the Project, in particular all environmental protection, health and safety and employment law provisions.

More specifically, the Beneficiary undertakes to complete, or procure the completion of, all employer formalities applicable under the regulations in force regarding employment law, social security cover, tax obligations and insurance.

6.4 Audits and monitoring

The Beneficiary authorises the Agency to perform or procure the performance of monitoring and audit missions covering both the special bank account for the Project and an assessment of the conditions in which the Project is being implemented and carried out and also the impacts of the Project and whether its objectives have been met.

To this end, the Beneficiary undertakes not to obstruct these audit and monitoring missions. The frequency of these missions and the procedures to be used, for both document-based and on-site audits, shall be determined by the Agency, following discussions with the Beneficiary. The Beneficiary shall provide the representatives of the Agency with all necessary information and all original supporting documentation relating to expenses.

The Beneficiary shall retain and make available for inspection by the Agency all documents related to the Project for a ten (10) year period following the Project Completion Date.



6.5 Procurement

The Beneficiary is solely responsible for procurement arrangements. If the Beneficiary is not the entity in charge of procurement, the Beneficiary shall take such steps as are necessary to ensure that the undertakings set out in this clause are binding on the Final Beneficiary or Beneficiaries.

If a contract is procured or performed in breach of the undertakings set out in this clause, the AFD will be entitled to claim reimbursement of all or part of the sums paid.

For the purposes of the procurement, award and performance of contracts for the implementation of the Project, the Beneficiary, whether it is subject to public procurement regulation or not, undertakes:

- (a) to comply with competitive bidding, equal treatment and transparency principles, in compliance with internationally recognised rules recommended by the OECD and the United Nations Convention against Corruption;
- (b) to comply with the applicable statutory, regulatory provisions and/or procedures applicable as regards all aspects of the procurement process. The Beneficiary shall apply the most restrictive provisions and/or procedures applicable to it under the laws and regulations applicable to the Beneficiary and under this clause;
- (c) to award contracts to contractors offering sufficient all-round guarantees as to their capacity to successfully perform the said contracts;
- (d) to follow procurement procedures for all of the following purchases or contracts:
 - For any contract for intellectual services, services or supplies where the value of the contract is estimated to be:
 - **Less than €5,000:** direct contracting procedures may be used, provided that the prices proposed are reasonable;
 - **Between €5,000 and €50,000:** consultation without publication of at least three service providers. The Beneficiary must first check the level of interest and expertise of these service providers for the service. The contract will be awarded to the lowest compliant bidder, other than for intellectual services where precedence will be given to the technical quality of the bid over the bid price in the assessment criteria;
 - **Over €50,000:** invitation for bids submitted to a shortlist of pre-selected bidders following the publication of a request for expressions of interest. In this case, the AFD's model documents may be used. Invitations for bids must be published as widely as possible, and at least on the <http://afd.dgmarket.com> website and also on any other medium (website or press) deemed relevant. The contract will be awarded to the lowest compliant bidder, other than for intellectual services where precedence will be given to the technical quality of the bid over the bid price in the assessment criteria.
 - For any contract for works where the value of the contract is estimated to be:
 - **Less than €15,000:** direct contracting procedures may be used, provided that the prices proposed are reasonable;
 - **Between €15,000 and €50,000:** consultation without publication of at least three service providers (3 quotes). The Beneficiary must first check the level of interest and expertise of these service providers for the service. The contract will be awarded to the lowest compliant bidder.

- **Over €50,000:** open invitation for bids. The invitation for bids must be published as widely as possible, and at least on the <http://afd.dgmarket.com> website and also on any other medium (website or press) deemed relevant. The contract will be awarded to the lowest compliant bidder.
- (e) to ensure that for the purposes of the procurement or performance of contracts:
- the time allowed for the preparation of bids is sufficient to allow bidders to submit high quality bids;
 - bids are examined by an assessment committee based on pre-announced exclusion, qualification and award criteria. This committee must have at least three members with the technical and administrative expertise needed to validly assess the bids;
 - the total aggregate value of supplemental agreements to a given contract does not exceed 20% of the initial value of the contract.
- (f) to require bidders to supply a duly signed Statement of Integrity (in the form of the model appended to the Agreement) and include this signed document as a contract document for the contract (including for direct consultations);
- (g) to retain the documents and accounting records relating to the procurement, award and performance of contracts for a period of 10 years, commencing on the deadline for the payment of the funds set out in the Agreement and submit them for verification to the AFD or an auditor appointed for the project.

6.6 Implementation of the Project

The Beneficiary undertakes:

- (i) to ensure that the persons, groups or entities involved in the Project are not listed on any one of the Financial Sanctions Lists (including, in particular, as part of measures to combat terrorist financing).
- (ii) not to acquire, finance or supply equipment or services and not to intervene in sectors placed under embargo by **the United Nations, the European Union** or France.

6.7 Lawful source of funds

The Beneficiary undertakes to ensure that its own funds and the funds other than public funds invested in the Project do not have an Unlawful Source.

In all cases, in the event that the Beneficiary becomes aware of any information raising suspicions about the Unlawful Source of the funds invested in the Project, it shall immediately inform the Agency thereof.

6.8 No Acts of Corruption, Fraud or Anti-Competitive Practices

The Beneficiary undertakes:

- (i) to ensure that the Project (in particular during the negotiation, procurement and performance of contracts financed using the financial contribution) does not give rise to any Acts of Corruption, Fraud or Anti-Competitive Practices;

- (ii) as soon as it becomes aware of, or suspects, any Act of Corruption, Fraud or Anti-Competitive Practices, to inform the Agency without any delay;
- (iii) in the event referred to in the above paragraph, or at the Agency's request if the Agency suspects such acts or practices, to take all necessary action to remedy the situation in a manner satisfactory to the Agency and within the time period determined by the Agency.

6.9 Insurance

The Beneficiary undertakes to insure the property acquired *or built* using the financial contribution or to make sure that the said property is insured, against the main risks that may arise in connection with implementation of the Project.

The Beneficiary shall take out and maintain in force such insurance as is required to cover all risks connected to the implementation of the Project or faced by its staff members for the implementation thereof.

6.10 Environmental and social responsibility

In order to promote sustainable development, the Parties adhere to the need to encourage compliance with environmental and social rules recognised by the international community, in particular those set out in the fundamental conventions of the International Labour Organization (ILO) and the international environmental protection conventions.

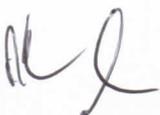
To this end, the Beneficiary undertakes:

In the course of its business activities:

- (a) to comply with international rules protecting the environment and workers, including the fundamental conventions of the International Labour Organization (ILO) and international environment conventions to the extent that they are consistent with the laws and regulations applicable in the country where the Project is implemented.

Within the framework of the Project:

- (b) to implement specific measures for the Project to manage the environmental and social risks of the Project. Within this framework, the Beneficiary must identify the potential risks of these operations for the environment and local populations, assess their potential impact in their areas of influence, examine possible variations and adopt the least harmful variations in environmental and social terms, based on their location, design or implementation. The Beneficiary should seek to prevent, minimise or offset any negative environmental or social externalities of the said operations;
- (c) to insert in the contracts and, where applicable, the set of bidding documents, a clause in which contractors undertake to comply with these rules to the extent that they are consistent with the laws and regulations applicable in the country in which the Project is implemented. These undertakings must also be binding on any subcontractors they may use. The Agency reserves the right to ask the Beneficiary to provide a report on the environmental and social conditions in which the Project will be implemented;
- (d) to ensure that the contractors selected to implement the Project enforce the applicable rules and implement these mitigation measures, to procure that they ensure that any subcontractors they use also comply with all of these measures and, in the event of a breach, to ensure that they take all suitable steps.



7. UNDERTAKINGS LINKED TO THE IMPLEMENTATION OF THE PROJECT

Each Party shall endeavour to facilitate, within its own remit, implementation of the Project within the framework of the partnership.

A Monitoring Committee responsible for overseeing the implementation of this agreement shall be set up. It will be composed of two or three representatives of each Party. The Committee may invite other persons to attend its meetings, in an advisory capacity, in particular co-ordinators of the relevant sectors and joint projects.

The Committee shall meet once a year, or more often if required, to monitor the progress made with the work being carried out.

8 INTELLECTUAL PROPERTY

In the event that this Agreement leads to the creation of any economic authors' rights, and in particular any rights of reproduction, display, use, adaptation or, more generally, rights of exploitation, the Parties shall share the said rights held or to be held in the reports, research, studies and documents carried out and produced within the framework of this Agreement, on a worldwide basis and for such time as the said rights are protected.

9. UNDERTAKINGS TO PROVIDE INFORMATION

The undertakings given in this Clause 10 (*Undertakings to Provide Information*) shall take effect as of the date on which the Agreement is signed and shall remain in full force and effect throughout the term of the Agreement.

9.1 Activity Report

Within three months following the Project Completion Date, the Beneficiary shall provide the Agency with an overall progress report including a technical and financial review of the initiatives undertaken and expenditure incurred during the Project's implementation.

9.2 Publicity and communications

Publications and communications relating to the Project shall be jointly agreed by the Parties and must specify each Party's contribution. Each Party undertakes to reply to any proposal for a publication or communication made by the other Party within a period of two (2) months. Thereafter, the publication or communication will be deemed to have been approved, except where the results may lead to the creation of economic value.

The Beneficiary undertakes, unless otherwise requested by the Agency, to state the Agency's financial contribution to the Project in publications and communications for public disclosure relating to activities financed under the Agreement.

All communications and publications must also mention the fact that only their author is liable for their content and that the Agency is not liable for any use that may be made of the information contained in the said communications or publications.

9.3 Additional Information

The Beneficiary shall promptly inform the Agency upon becoming aware of any decision or event liable to have a material adverse effect on the structure, implementation or operation



of the Project, the nature of this decision or event and the steps taken, where applicable, to remedy the situation.

10. CONFIDENTIALITY

Any and all information shared between the Parties shall be treated as confidential and may not be used for any purpose other than the purpose for which it was provided and may not be disclosed without the other Party's prior written consent.

Each Party undertakes to return to the other Party, at the latter's request, any and all confidential information and undertakes not to retain any copy or reproduction thereof, other than copies that may be strictly necessary to ensure compliance with its accounting or tax obligations.

However, the following information does not constitute confidential information:

- information that was already in the public domain at the time of its disclosure;
- information known by the other Party prior to its disclosure;
- information which after disclosure becomes part of the public domain through no fault of a Party;
- information lawfully received from a third party.

This confidentiality undertaking shall continue to apply for the term of the Agreement and for a period of five years as of the expiry or termination thereof, regardless of the reason therefor. However, notwithstanding the foregoing, information protected by professional secrecy obligations may not be disclosed until the said obligations cease to apply.

The Beneficiary acknowledges that it has been informed that the professional secrecy obligation set out in the combined provisions of Articles L511-33 and L571-4 of the French Monetary and Financial Code (*Code Monétaire et Financier*) applies to the Agency, in its capacity as a credit institution, and that breaches of this obligation may be criminally prosecuted.

11. TERMINATION

In the event that the Beneficiary is in breach of any one of the provisions of the Agreement, and in particular:

- any one of its representations or statements made under Clause 5 (*Representations*), which is or proves to have been inaccurate or misleading at the time it was made;
- any one of its undertakings given under Clause 6 (*Undertakings*) or Clause 9 (*Undertakings to Provide Information*) of the Agreement.

The Beneficiary shall send the Agency, within fifteen calendar days following formal notice sent by the Agency by registered post with acknowledgement of receipt, a written explanation of the reasons for the said breach.

In the event that the said explanation is deemed invalid and, where applicable, the notified breach is not remedied, the Agency reserves the right to terminate the Agreement, with no compensation payable by the Agency in such cases.

The Agency shall inform the Beneficiary thereof by letter sent by registered post with acknowledgement of receipt and the Beneficiary undertakes, at the Agency's request, to repay the Agency all or part of the financial contribution.

12. AMENDMENTS TO THE AGREEMENT

Any amendment to the Agreement must first be recorded in a supplemental agreement signed by the Parties.

13. LEGAL EFFECT

The Appendices hereto form an integral part of the Agreement and have the same legal effect as the Agreement.

14. NOTICES - ADDRESS FOR SERVICE

All notices, requests and communications under the Agreement or relating thereto must be made in writing and sent to the respective registered offices of the Parties.

For the purposes of performance of the Agreement, the Parties have chosen the following addresses for service:

For the Beneficiary

Secretariat of the Pacific Regional Environment Programme (SPREP)

Address: PO Box 240, Apia SAMOA
Telephone: +685 21929
Fax: -
E-mail: amandaw@sprep.org
For the attention of: Amanda Wheatley, Biodiversity Adviser

For the Agency

AFD Pacific Regional Office

Address: 1 rue de Barleux, BP J1 98849 Noumea Cedex, New Caledonia
Telephone: +687242608
Fax: -
E-mail: cagnellikl@afd.fr
For the attention of: Kim-Lou Cagnelli, Policy officer

or to such other address, fax number, department or manager as a Party may notify to the other Party, with no fewer than five (5) business days' prior notice.

15. APPLICABLE LAW AND JURISDICTION

The Agreement is governed by French law.

The Parties shall settle any disputes arising from the interpretation or performance of the Agreement amicably.

In the event that the Parties fail to amicably settle a dispute, the said dispute shall be referred to the Paris court of competent jurisdiction.



16. EFFECTIVE DATE - TERM

The Agreement shall take effect on the date it is signed by the Parties and shall expire on 28/03/2021.

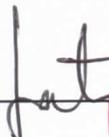
Notwithstanding the foregoing, the provisions of Clauses 9 (Intellectual Property), 11 (Confidentiality) and 17 (Applicable Law and Jurisdiction) shall survive expiry of the Agreement.

Executed in two (2) originals, in Noumea, on 20 OCT. 2020

THE BENEFICIARY

Secretariat of the Pacific Regional Environment Programme

Represented by:



Kosi LATU
Director General



AGENCE FRANCAISE DE DEVELOPPEMENT

Represented by:



Philippe RENAULT
Regional Director for the Pacific



APPENDIX 1 – DEFINITIONS

Acts of Corruption

shall mean the following acts:

- the act of promising, offering or giving, directly or indirectly, to a Public Official or to any person who directs or works, in any capacity, for a private sector entity, an undue advantage of any nature, for the relevant person himself or herself or for another person or entity, in order that this person acts or refrains from acting in breach of his or her legal, contractual or professional obligations and, having for effect to influence his or her own actions or those of another person or entity; or
- the act of a Public Official or any person who directs or works, in any capacity, for a private sector entity, soliciting or accepting, directly or indirectly, an undue advantage of any nature, for the relevant person himself or herself or for another person or entity, in order that this person acts or refrains from acting in breach of his or her official obligations or legal, contractual or professional obligations and, having for effect to influence his or her own actions or those of another person or entity.

Public Official

shall mean:

- any person holding a legislative, executive, administrative or judicial office, whether appointed or elected, whether permanent or temporary, whether paid or unpaid, irrespective of that person's seniority,
- any other person who performs a public function, including for a public agency or public enterprise, or provides a public service,
- any other person defined as a "public official" in the domestic law of the Beneficiary.

Appendix(es)

shall mean the appendix or appendices to this agreement.

Authorisation(s)

shall mean any and all consents, registrations, filings, agreements, certifications, statements, authorisations, approvals, permits and/or mandates, or exemptions from the foregoing, obtained from or made with or to an Authority, whether granted in a specific document or deemed to have been granted in the absence of a reply within a given period.

Authority(ies)

shall mean any and all governments and any and all state, governmental, administrative, tax or judicial branches, departments or commissions exercising public powers,



administrative authorities, courts, agencies or entities.

Provisional Budget

shall mean the provisional budget for the Project as set out in Appendix 3 hereto (Provisional budget).

Agreement

shall mean this financial contribution agreement, including its recitals, its appendices and, where applicable, any subsequent supplemental agreements.

Project Completion Date

shall mean the date of the completion of the Project scheduled for [28/11/2020].

Embargo

shall mean any commercial sanction designed to prohibit imports or exports (supplies, sales or transfers) of one or more types of goods, products or services to and/or from a State for a fixed period and as published and modified by the United Nations, the European Union or France.

Fraud

shall mean any scheme (act or omission), whether or not it constitutes a criminal offence, designed to deliberately deceive another person, knowingly conceal information from this person or unduly obtain or vitiate this person's consent, circumvent statutory or regulatory obligations and/or breach the internal rules of the company in order to obtain an unwarranted advantage.

Fraud affecting the European Union's Financial Interests

shall mean any intentional act or omission designed to cause damage to the European Union's budget and involving (i) the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the misappropriation or wrongful retention of funds or an unlawful reduction in the resources of the general budget of the European Union, (ii) the non-disclosure of information with the same effect and (iii) the misuse of such funds for purposes other than those for which they were originally granted.

Financial Sanctions Lists

shall mean the lists of persons, groups or entities subject to United Nations, European Union or French financial sanctions.

The references set out below are provided by the Agency for information purposes only. The Beneficiary has no right to rely on them.

(a) **The United Nations** lists may be consulted at the following address:
http://www.un.org/sc/committees/list_compend.shtml

(b) **For the European Union and France**, the Consolidated List of Sanctions may be consulted at the following address:
http://www.tresor.economie.gouv.fr/11448_liste-unique-de-gels



Unlawful Source

shall mean funds sourced from:

- (i) predicate offences for money laundering as defined in the glossary of the FATF 40 Recommendations under the term 'Designated categories of offences' (<http://www.fatf-gafi.org/fr/pages/glossaire/a-c/>);
- (ii) Acts of Corruption; or
- (iii) Fraud affecting the European Union's Financial Interests, where applicable.

Anti-Competitive Practices

shall mean:

- (i) any concerted or implicit action having as its object and/or as its effects to impede, restrict or distort fair competition in a market, including without limitation when it tends to: 1° limit market access or the free exercise of competition by other companies; 2° prevent price setting by the free play of markets by artificially favouring the increase or decrease of such prices; 3° limit or control any production, markets, investment or technical progress; or 4° share out markets or sources of supply;
- (ii) any abuse by a company or group of companies of a dominant position within a domestic market or in a substantial part thereof; or
- (iii) any bid or predatory pricing having as its object and/or its effect to eliminate a company or one of its products from a market, or to prevent a company or one of its products from accessing the market.

Project

shall mean the project described in Appendix 2 (Project Description).

APPENDIX 2 –PROJECT DESCRIPTION

Background

More than 45 years after the first conference, held in 1975, the Government of New Caledonia, with SPREP and the Pacific Island Roundtable for Nature Conservation (PIRT) is to host the 10th Pacific Islands Conference on Nature Conservation and Protected Areas. Initially organized from April 2020, the conference was postponed as a result of the global COVID-19 pandemic, and has now been rescheduled to 23-27th November 2020 as a full virtual event, with local hubs and elements. The virtual event is tailored to achieve the original objectives of the Conference.

The conference will be organized for the first time by a French territory and it will take place during the last year of the United Nations Decade for Biodiversity. This will be an opportunity to assess the progress made towards achieving the set conservation goals and to influence the regional and global vision for conservation after 2020.

The 10th conference will produce a new framework for nature conservation and protected areas in the Pacific region. A high-level segment aims to set new "biodiversity" objectives that can feed into the post-2020 Convention on Biological Diversity program on behalf of the region. The prestigious "Pacific Islands Environmental Leadership Awards" which were to be presented for the second time at the original Conference, will now be presented later in 2021 at what is planned to be a prestigious face-to-face event, potentially in Noumea, New Caledonia and to incorporate the Pacific Islands Roundtable annual meeting.

Conference theme

The theme and title for the conference is Nature Conservation Action for a Resilient Pacific, with effective conservation and management of biodiversity critical for ensuring Pacific island countries and territories are resilient and adaptable to a changing world. The Pacific Islands' rich biodiversity and valuable ecosystem services also underpin tourism, agriculture, forestry and fisheries; the food, livelihoods, health and water security of communities; and is key to providing resilience and viable adaptation responses to changing climates and environment.

The decline in biodiversity across the Pacific continues at an alarming rate and contributes to high levels of loss globally. The Pacific still faces alarming rates of habitat degradation and loss that could exceed irreversible thresholds, challenging the resilience of many species and ecosystems, including mangroves and terrestrial forests driven by a range of development pressures. This compounds the impacts on coral reefs that are already declining as a result of climate change, reefs that are vital for food security, livelihoods, tourism and coastal protection. These risks are exacerbated by the acceleration of trade and human migrations leading to increased risk of native species being replaced by invasive alien species. The conference theme highlights the need for urgent and real action now, and the need to think beyond what we are currently doing and to the needs of future generations.

The conference will explore regional challenges and priorities across 3 thematic streams:

- Our Ocean
- Our Island
- Our Connection with Nature

In each thematic stream and transversely, a limited number of areas that need urgent and real action, are prioritized as topics for the parallel sessions. These priority topics are called action tracks, and refer to a path towards the objectives of the new Framework for Nature Conservation and Protected Areas and responds to a challenge, or challenges, that are identified in the State of Environment and Conservation in the Pacific Islands: 2020 Regional Report. Each Action Track will have one session in the Conference.

We want to explore the following priorities and challenges facing 'Our Ocean' :

- Action Track: Effective marine protected areas
- Action Track: Marine ecosystem integrity
- Action Track: Reducing threats to threatened and migratory marine species
- Action Track: Ending unsustainable fishing
- Action Track: Marine pollution prevention
- Action Track: Deep-sea and seabed mining

We want to explore the following priorities and challenges facing 'Our Island':

- Action Track: Effective terrestrial protected areas
- Action Track: Terrestrial Ecological Integrity
- Action Track: Threatened and migratory terrestrial species
- Action Track: Nature-based solutions to sustain socio-ecological systems
- Action Track: Battling invasive species
- Action Track: Land and freshwater pollution prevention

We want to explore the following priorities and challenges facing 'Our Connection with Nature':

- Action Track: Involving Pacific people in conservation action
- Action Track: Behaviour change for nature conservation, the role of education, communication and arts in our society
- Action Track: Ecosystem-based approaches to address climate change, disaster and pandemic recovery
- Action Track: Sustainable ocean economies
- Action Track: Sustainable island production and consumption
- Action Track: Sustainable ecotourism

Transversely we want to look at:

- Action Track: Science-based target-setting and monitoring for informed decision-making
- Action Track: Governance that works for nature conservation
- Action Track: Financing nature conservation

The 10th Pacific Islands Conference for Nature Conservation and Protected Areas provides an opportune time to bring together the diverse stakeholders to develop a Pacific initiated agenda for 2020 and beyond, which will then be voiced at the significant events of 2020/2021 including the IUCN World Conservation Congress, and culminating to providing inputs into the 15th Conference of Parties (COP15) to the United Nations Convention on Biological Diversity (CBD).

AFD Visibility and Participation

The conference will provide an opportunity for organisations and businesses to showcase their contributions to national and regional conservation programs. Sessions, exhibits, and story and data galleries will deal with technical, scientific and experimental aspects of nature conservation in the Pacific with particular focus on action.

AFD support for the organization of the conference would contribute to the following costs:

- Interpretation during the conference;
- Translation of key Conference related documents including the Framework for Nature Conservation and high-level declaration;
- Virtual event platform and services for managing and hosting;
- Supporting category winners and trophy for the Pacific Islands Environmental Leadership Awards



This support will mean AFD to benefit from an online presence on the conference website and virtual platform, in particular through the publication of the logo on the site, and other benefits including:

- **Exhibition booth** which AFD can self-manage the content including videos, documents, publications and more. Includes ability to have participants make enquiries, and to setup networking sessions and meetings.
- Lead on a session of your choice in the main programme of the Conference
- Side-event slot
- Promotion in Conference newsletter

Please refer to the TĒÂ KANAKÉ Sponsorship Package document.



APPENDIX 3 – PROVISIONAL BUDGET²

ACTIVITY	DESCRIPTION	AMOUNT (EURO)
Interpretation during the conference	Simultaneous interpretation across plenary and parallel sessions over the duration of the conference	22,000
Virtual event hosting and management	Contribution towards the cost of company to provide virtual event technical, management, and communications elements	10,000
Translation services	Translation of key Conference related documents including the Framework for Nature Conservation and high-level declaration	10,000
Pacific Island Environmental Leadership Awards	Award Category sponsor	6,000
Internet, Zoom licence and communications costs	Router, internet costs and Zoom licence fee for Conference coordination team before and during the event.	1,000
Reporting	Financial and narrative reporting	1,000

² Pour rappel : la contribution financière doit couvrir les frais engagés sans marge bénéficiaire. Pour être imputables sur la contribution, ils doivent être précisément chiffrables, justifiables, individualisables et correspondre au coût réellement encouru et non à une somme forfaitaire (cf article 3.2)



APPENDIX 4 : STATEMENT OF INTEGRITY

Statement of Integrity, Eligibility and Social and Environmental Responsibility

Reference name of the Bid: ("**Contract**")

To: ("**Contracting Authority**")

1. We recognise and accept that *Agence française de développement* ("AFD") only finances projects of the Contracting Authority subject to its own conditions which are set out in the Financing Agreement which it has entered into with the Contracting Authority. As a matter of consequence, no legal relationship exists between AFD and our company, our joint venture or our subcontractors. The Contracting Authority retains exclusive responsibility for the preparation and implementation of the contract procurement and its subsequent performance.
2. We hereby certify that neither we nor any other member of our joint venture or any of our subcontractors are in any of the following situations:
 - 2.1) being bankrupt, wound up or ceasing our activities, having our activities administered by the courts, having entered into receivership, reorganisation or being in any analogous situation arising from any similar procedure;
 - 2.2) having been convicted, within the past five years by decision of a court decision, which has the force of *res judicata* in the country where the project is implemented, of one of the acts mentioned in sections 6.1 to 6.4 below or of any other offense committed during the procurement or performance of a contract³;
 - 2.3) being listed for financial sanctions by the United Nations, the European Union and/or France for the purposes of fight-against-terrorist financing or threat to international peace and security;
 - 2.4) having committed serious professional misconduct within the past five years during the procurement or performance of a contract;
 - 2.5) not having fulfilled our obligations regarding the payment of social security contributions or taxes in accordance with the legal provisions of either the country where we are established or the Contracting Authority's country;
 - 2.6) having been convicted, within the past five years by a court decision, which has the force of *res judicata*, of one of the acts mentioned in sections 6.1 to 6.4 below or of any other offense committed during the procurement or performance of an AFD-financed contract;
 - 2.7) being subject to an exclusion decision of the World Bank since 30 May 2012, and being listed on the website <http://www.worldbank.org/debarr>⁴;
 - 2.8) having committed misrepresentation in documentation requested by the Beneficiary as part of the contract procurement procedure.
3. We hereby certify that neither we, nor any of the members of our joint venture or any of our subcontractors are in any of the following situations of conflict of interest:
 - 3.1) being an affiliate controlled by the Contracting Authority or a shareholder controlling the Contracting Authority, unless the stemming conflict of interest has been brought to the attention of AFD and resolved to its satisfaction;

³ In the event of such conviction, you may attach to this Statement of Integrity supporting information showing that this conviction is not relevant in the context of this AFD-financed contract.

⁴ In the event of such exclusion, you may attach to this Statement of Integrity supporting information showing that this exclusion is not relevant in the context of this AFD-financed contract.



3.2) having a business or family relationship with a Contracting Authority's staff involved in the selection procedure or the supervision of the resulting contract, unless the stemming conflict of interest has been brought to the attention of AFD and resolved to its satisfaction;

3.3) being controlled by or controlling another bidder or being under common control with another bidder, or receiving from or granting subsidies directly or indirectly to another bidder, having the same legal representative as another bidder, maintaining direct or indirect contacts with another bidder which allows us to have or give access to information contained in the respective bids, influencing them or influencing decisions of the Contracting Authority;

3.4) being engaged in a consultancy activity, which, by its nature, may be in conflict with the assignments that we would carry out for the Contracting Authority;

3.5) in the case of a works or goods procurement procedure:

- i. having prepared or having been associated with a consultant who prepared specifications, drawings, calculations and other documentation that are subject of the bid;
- ii. having been recruited (or being proposed to be recruited) ourselves or any of our affiliates, to carry out works supervision or inspection for this contract.

4. If we are a government-owned entity, we certify that we have legal and financial autonomy and that we operate under commercial laws and regulations.

5. We undertake to bring to the attention of the Contracting Authority, which will inform AFD, any change in situation with regard to points 2 to 4 here above.

6. In the context of procurement and performance of the contract:

6.1) We have not and we will not engage in any dishonest conduct (act or omission) deliberately intended to deceive others, to intentionally conceal items, to violate or vitiate someone's consent, to make them circumvent legal or regulatory requirements and/or to violate their internal rules in order to obtain illegitimate profit.

6.2) We have not and we will not engage in any dishonest conduct (act or omission) contrary to our legal or regulatory obligations or our internal rules in order to obtain illegitimate profit.

6.3) We have not promised, offered or given and we will not promise, offer or give, directly or indirectly to (i) any person who holds a legislative, executive, administrative or judicial mandate within the State of the Contracting Authority regardless of whether that person was nominated or elected, regardless of the permanent or temporary, paid or unpaid nature of the position and regardless of the hierarchical level the person occupies, (ii) any other person who performs a public function, including for a State institution or a State-owned company, or who provides a public service, or (iii) any other person defined as a public officer by the national laws of the Contracting Authority, an undue advantage of any kind, for himself or for another person or entity, for such public officer to act or refrain from acting in his official capacity.

6.4) We have not promised, offered or given and we will not promise, offer or give, directly or indirectly to any private person who occupies an executive position in a private sector entity or works for such an entity, regardless of the nature of his/her capacity, any undue advantage of any kind, for himself or another person or entity for such private person to perform or refrain from performing any act in breach of its legal, contractual or professional obligations.

6.5) We have not and we will not engage in any practice likely to influence the contract award process to the detriment of the Contracting Authority and, in particular, in any anti-competitive practice having for object or for effect to prevent, restrict or distort competition, namely by limiting access to the market or the free exercise of competition by other undertakings.

6.6) Neither we nor any of the members of our joint venture or any of our subcontractors shall acquire or supply any equipment nor operate in any sectors under an embargo of the United Nations, the European Union or France.

6.7) We commit ourselves to comply with and ensure that all of our subcontractors comply with international environmental and labour standards, consistent with laws and regulations applicable



in the country of implementation of the contract, including the fundamental conventions of the International Labour Organisation (ILO) and international environmental treaties,. Moreover, we shall implement environmental and social risks mitigation measures such as specified in the environmental and social management plan or, if appropriate, in the environmental and social impact assessment notice provided by the Contracting Authority.

7. We, as well as members of our joint venture and our subcontractors authorise AFD to inspect accounts, records and other documents relating to the procurement and performance of the Contract and to have them audited by auditors appointed by AFD.

Name: _____ In the capacity of _____

Signature: _____

Duly empowered to sign the bid in the name and on behalf of⁵ _____

⁵ In case of joint venture, insert the name of the joint venture. The person who will sign the bid on behalf of the bidder shall attach a power of attorney from the bidder.



