



Australian Government

Department of the Environment and Energy

Commonwealth Standard Agreement

between the Commonwealth of Australia as represented by

the Department of the Environment and Energy,

ABN 34 190 894 983

and

the Secretariat of the Pacific Regional Environment Programme to
implement the Pacific Ocean Litter Project

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Scope of this Agreement

This Agreement comprises:

- (a) this document;
- (b) the Supplementary Terms;
- (c) the Standard Conditions (Schedule 1);
- (d) the Agreement Details;
- (e) any other document referenced or incorporated in the Agreement Details.

Each set of Agreement Details, including Supplementary Terms (if any), only applies to the particular Payment and Activity covered by that set of Agreement Details and a reference to the 'Agreement' in the Agreement Details or the Supplementary Terms is a reference to the Agreement in relation to that particular Payment and Activity. If there is any ambiguity or inconsistency between the documents comprising this Agreement in relation to a Payment, the document appearing higher in the list will have precedence to the extent of the ambiguity or inconsistency.

This Agreement represents the Parties' entire agreement in relation to each Payment provided under it and the relevant Activity and supersedes all prior representations, communications, agreements, statements and understandings, whether oral or in writing.

Certain information contained in or provided under this Agreement may be used for public reporting purposes.

- (e) adopt gender and social inclusion policies and strategies throughout implementation of the project to empower women and people with a disability
 - (f) carry out feasibility assessments and pilot studies with a particular focus on changing the behaviour of consumers and industry, to increase the effectiveness and sustainability of measures for reducing the use and availability of single-use plastics
 - (g) undertake a regional feasibility study into the production of alternative products to single-use plastics in the Pacific region
 - (h) provide skills training and capacity building for Pacific island countries through specialist technical support at regional and national levels
 - (i) collect and analyse data on single-use plastics to evaluate and determine the effectiveness of the program throughout implementation
 - (j) undertake risk management assessments of activities to ensure that effective control measures can be, and are, implemented.
2. SPREP will provide the following planning, reporting and administrative services:
- (a) undertake a regional assessment of current single-use plastic initiatives underway in the Pacific relevant to the project outcomes, lessons learned, gap analysis and priority mapping taking into account the priorities of Pacific island countries
 - (b) prepare a detailed 4-year program budget and plan for approval by the Project Steering Committee in August 2019
 - (c) prepare annual workplans and budgets based program plan for approval by the Project Steering Committee
 - (d) prepare a monitoring and evaluation plan based on the 4-year program plan in consultation for approval by the Project Steering Committee
 - (e) prepare a communications and stakeholder engagement plan for the project
 - (f) provide half-yearly and annual reports with financial statements that outline progress with implementation of the program plan, annual workplan and monitoring and evaluation plan
 - (g) brief the Project Steering Committee on progress with implementation, risks, challenges and lessons learned (at least two times a year)
 - (h) host a three-year deployment from the DoEE to work in SPREP to lead and manage a small team to coordinate and implement the project
 - (i) recruit and manage staff with an appropriate mix of technical skills to coordinate and implement the project
 - (j) procure contractors and consultants to deliver services and activities as required in accordance with SPREP procurement rules and procedures
 - (k) provide a Final Project Report and Financial Acquittal that includes a summative evaluation of the project against the Project Concept Design and 4-Year Work Program.

C. Duration of the Agreement

The Activity starts on the date of signing of the agreement by the DoEE representative.

The Activity (other than the provision of any final reports) ends on 31 December 2022 which is the Activity's Completion Date.

The Agreement ends on 30 March 2023 *'when SPREP has provided all of the reports and repaid any Payment amount as required under this Agreement'*.

Milestone	Anticipated date	Amount (excl. GST)	GST	Total (incl. GST)
Milestone 3 Acceptance of 2020 Mid-year Progress Report and Financial Statement by the Project Steering Committee	31 August 2020	\$800,000	N/A	\$800,000
Milestone 4 Acceptance of 2020 Annual Report, Financial Acquittal, and Annual Workplan and Budget by the Project Steering Committee	28 February 2021	\$800,000	N/A	\$800,000
Milestone 5 Acceptance of 2021 Mid-year Progress Report and Financial Statement by the Project Steering Committee	31 August 2021	\$620,000	N/A	\$620,000
Milestone 6 Acceptance of 2021 Annual Report, Financial Acquittal, and Annual Workplan and Budget by the Project Steering Committee	28 February 2022	\$620,000	N/A	\$620,000
Milestone 7 Acceptance of 2022 Mid-year Progress Report and Financial Statement by the Project Steering Committee	31 August 2022	\$500,000	N/A	\$500,000
Milestone 8 Acceptance of Final Project Report and Financial Acquittal by the Project Steering Committee	30 April 2023	90,000	N/A	90,000
Total Amount		\$5,400,000		\$5,400,000

2. Mid-year Reports

2.1 Within the timeframe specified in the Activity Schedule the recipient must prepare a Mid-year Report and Financial Information for the approval by the Project Steering Committee in July of each year (in accordance with Milestones 3, 5 and 7) in which the Recipient has received, expended or retained funds pursuant to this Agreement.

- (a) The Mid-year Report must provide an outline of progress with implementation of the project against the annual workplan for the relevant calendar year.
- (b) The required Financial Information must include an itemised statement of income and expenditure.

3. Annual Report and Verified Financial Information

3.1 Within the timeframe specified in the Activity Schedule the recipient must submit a draft Annual Report and for the approval by the Project Steering Committee. The Annual Report must:

- (a) be submitted for approval by the Project Steering Committee at the end of each calendar year (in accordance with Milestones 2, 4 and 6) in which the Recipient has received, expended or retained Funds pursuant to this Agreement. The recipient will finalise Annual Reports in accordance with advice and comments provided by the Committee and the DoEE.
- (b) The Annual Report must provide a detailed explanation of progress and deliverables against the 4-year Program Plan and Monitoring and Evaluation Plan.
- (c) The required Financial Information must be approved by the Recipient's Chief Financial Officer or other position within the Recipient organisation with the corporate responsibility for ensuring the veracity and accuracy of financial information reported on behalf of the Recipient.

4. Final Report

4.1 Within the timeframe specified in the Activity Schedule the recipient must submit a draft Final Report and Financial Information for the approval by the Project Steering Committee:

- (a) at the end of the project in accordance with Milestone 8. The recipient will finalise the Final Report in accordance with advice and comments provided by the Committee and the DoEE.
- (b) The Final Report must provide a summative evaluation of the project against the 4-year Program Plan and Monitoring and Evaluation Plan.
- (c) The required Financial Information covering the full period of the agreement must be approved by the Recipient's Chief Financial Officer or other position within the Recipient organisation with the corporate responsibility for ensuring the veracity and accuracy of financial information reported on behalf of the Recipient.

5. Additional Reports

5.1 The DoEE may at any time, and from time to time, during the Agreement Period, require the Recipient to provide reports and other information in addition to the Mid-year, Annual and Final Reports required

Supplementary Terms from Clause Bank

1. Child protection, gender equity and social inclusion

- 1.1 The Recipient and its Personnel will ensure that any procurement undertaken under this Agreement will ensure that the following policies are included:
- (a) Child Protection – Should the execution of activities under this agreement involve working with children, SPREP shall undertake a child protection risk assessment and if risks are identified, Australia’s Department of Foreign Affairs and Trade Child Protection Policy will apply. The *Child Protection Policy* is accessible on the DFAT website: <http://dfat.gov.au/aid/topics/safeguards-risk-management/child-protection/Pages/child-protection.aspx> and particularly the child protection compliance standards at Attachment 1 to the policy.
 - (b) Promoting Opportunities for All: Gender Equality and Women’s Empowerment (November 2011) for the DFAT – Australian Aid Program accessible on the DFAT website: <http://dfat.gov.au/about-us/publications/Pages/promoting-opportunities-for-all-gender-equality-and-women-s-empowerment.aspx>
 - (c) *Development for All: Towards a Disability-Inclusive Australian Aid Program 2009-2014* for the DFAT – Australian Aid Program, accessible on the DFAT website: <http://dfat.gov.au/about-us/publications/Pages/development-for-all-towards-a-disability-inclusive-australian-aid-program-2009-2014.aspx>, and in particular the strategy’s six (6) guiding principles.

2. Contracts and Payments

- 2.1 Where SPREP enters into a contract or provides a Payment in connection with the Activity, SPREP will manage all matters in connection with the contract or Payment arrangement, including, without limitation, the following:
- (a) ensuring that the contract or Payment arrangement requires the contractor (and any sub-contractor) to detect and prevent Fraudulent Activities;
 - (b) ensuring that the contract or Payment arrangement requires the contractor (and any sub-contractors) to ensure that no offer, gift or payment, consideration or benefit of any kind that would or could be considered an illegal or corrupt practice, will be made or received either directly or indirectly, as an inducement or reward in relation to the contract or Payment arrangement;
 - (c) reporting to DoEE all instances of fraud, including suspected fraud or corruption, arising out of any contract or Payment arrangement within five (5) business days of becoming aware of the fraud or corruption and reporting to DFAT on a monthly basis the progress of any investigation and the actions taken to mitigate the risk of similar instances of fraud or corruption occurring in the future;
 - (d) taking all reasonable steps to ensure that the contractor (and any sub-contractors), individuals, entities or organisations involved in any way whatsoever in the Activity:
 - (i) are not directly or indirectly engaged in preparing, planning, assisting in or fostering the doing of a terrorist act;
 - (ii) are not, and do not become listed as a terrorist organisation under the *Criminal Code Act 1995* (Cth) and related regulations. The list of terrorist organisations is currently posted at <https://www.nationalsecurity.gov.au/Listedterroristorganisations/Pages/default.aspx>;
 - (iii) are not, and do not become listed on the ‘Consolidated List’ made under the *Charter of the United Nations Act 1945* (Cth) and the *Autonomous Sanctions Act 2011* (Cth), and related regulations, currently posted at <http://dfat.gov.au/international-relations/security/sanctions/pages/consolidated-list.aspx>; and
 - (iv) are not, and do not become listed on the World Bank’s “Listing of Ineligible Firms and Individuals” currently posted at <http://web.worldbank.org/external/default/main?theSitePK=84266&contentMDK=64069844&menuPK=116730&pagePK=64148989&piPK=64148984>;
 - (v) are not acting on behalf of, or at the direction of, individuals, persons, entities or organisations on the lists referred to in subparagraphs (ii) to (iv);

Signatures

Executed as an agreement:

Commonwealth:

Signed for and on behalf of the Commonwealth of Australia as represented by the Department of the Environment and Energy, ABN 34 190 894 983	
Name: (print) Position: (print) Signature and date:	Deputy Secretary
Witness Name: (print) Signature and date:

Contractor:

Signed for and on behalf of the South Pacific Regional Environment Programme by its authorised officer who warrants that he or she is authorised to enter into this Agreement on behalf of the South Pacific Regional Environment Programme	
Name: (print) Position: (print) Signature and date:	Kosi Latu Director General <i>Kosi Latu</i> 23/05/2019
Witness Name: (print) Signature and date:	Rosanna Galuvao <i>Rosanna Galuvao</i> 23/5/2019

6.2 SPREP agrees to make available to the DoEE the details of any of its subcontractors engaged to perform any tasks in relation to this Agreement upon request.

6.3 SPREP agrees not to subcontract any part of the performance of the Activity without the DoEE's prior written consent. The DoEE may impose any conditions it considers reasonable and appropriate when giving its consent.

6.4 SPREP agrees to remove a subcontractor from the Activity at the reasonable request of the DoEE and at no additional cost to the DoEE.

7. Conflict of interest

7.1 Other than those which have already been disclosed to the DoEE, SPREP warrants that, to the best of its knowledge, at the date of this Agreement neither it nor its officers have any actual, perceived or potential conflicts of interest in relation the Activity.

7.2 If during the term of the Agreement, any actual, perceived or potential conflict arises or there is any material change to a previously disclosed conflict of interest, SPREP agrees to:

- (a) notify the DoEE promptly and make full disclosure of all relevant information relating to the conflict; and
- (b) take any steps the DoEE reasonably requires to resolve or otherwise deal with that conflict.

8. Variation, assignment and waiver

8.1 This Agreement may be varied in writing only.

8.2 SPREP cannot assign its obligations, and agrees not to assign its rights, under this Agreement without the DoEE's prior approval.

8.3 SPREP agrees not to enter into negotiations with any other person for the purposes of entering into an arrangement that will require novation of, or involve any assignment of rights under, this Agreement without first consulting the DoEE.

8.4 A waiver by a Party of any of its rights under this Agreement is only effective if it is in a signed written notice to the other Party and then only to the extent specified in that notice.

9. Taxes, duties and government charges

9.1 SPREP agrees to pay all taxes, duties and government charges imposed or levied in Australia or overseas in connection with the performance of this Agreement, except as provided by this Agreement.

9.2 If Goods and Services Tax (GST) is payable by a supplier on any supply made under this Agreement, the recipient of the supply will pay to the supplier an amount equal to the GST payable on the supply, in addition to and at the same time that the consideration for the supply is to be provided under this Agreement.

9.3 If at the commencement of the Agreement SPREP is not registered for GST and during the term of the Agreement SPREP becomes, or is required to become, registered for GST, SPREP agrees to notify the DoEE in writing within 7 days of becoming registered for GST.

10. Spending the Payments

10.1 SPREP agrees to spend the Payments for the purpose of performing the Activity and otherwise in accordance with this Agreement.

10.2 Within one month after the Activity's Completion Date **[and at least every 12 months during the term of the Activity]**, SPREP agrees to provide **[a] financial statement[s]** signed by SPREP verifying the Payments were spent in accordance with this Agreement.

10.3 A statement under clause 10.2 must include an income and expenditure statement in relation to the Payments and the Activity for each financial year of the Agreement.

11. Repayment

11.1 If any amount of the Payments:

- (a) has been spent other than in accordance with this Agreement; or
- (b) is additional to the requirements of the Activity;

(b) not to do anything which, if done by the DoEE, would be a breach of an Australian Privacy Principle.

15. Confidentiality

15.1 The Parties agree not to disclose each other's confidential information without the other Party's prior written consent unless required or authorised by law or Parliament to disclose.

15.2 The DoEE may disclose SPREP's confidential information where;

- (a) the DoEE is providing information about the Activity or Payments in accordance with DoEE accountability and reporting requirements;
- (b) the DoEE is disclosing the information to a Minister of the Australian Government, a House or Committee of the Commonwealth Parliament; or
- (c) the DoEE is disclosing the information to its personnel or another Commonwealth agency where this serves the Commonwealth's legitimate interests.

16. Insurance

16.1 SPREP agrees to **effect and** maintain for as long as any obligations remain in connection with this Agreement:

- (a) workers compensation insurance as required by law;
- (b) adequate and appropriate public liability insurance; and
- (c) insurance against any loss or damage to an asset for its full replacement cost including where relevant the costs of demolition and removal of debris and the cost of architects, engineers and other consultants; and
- (d) any other additional insurance specified in the Agreement Details.

16.2 SPREP agrees to provide proof of insurance to the DoEE upon request and within the time specified in the request.

17. Intellectual property

17.1 SPREP owns the Intellectual Property Rights in Material created by SPREP as a result of undertaking the Activity.

17.2 SPREP provides the DoEE a permanent, non-exclusive, irrevocable, royalty-free licence to use, modify, communicate, reproduce, publish, adapt and sub-license the Reporting Material for Commonwealth Purposes.

17.3 The licence in clause 17.2 does not apply to Activity Material.

17.4 This Agreement does not affect the ownership of Intellectual Property Rights in Existing Material.

18. Dispute resolution

18.1 The Parties agree not to initiate legal proceedings in relation to a dispute arising under this Agreement unless they have first tried and failed to resolve the dispute by negotiation.

18.2 Unless clause 18.3 applies, the Parties agree to continue to perform their respective obligations under this Agreement when a dispute exists.

18.3 The Parties may agree to suspend performance of the Agreement pending resolution of the dispute.

18.4 Failing settlement by negotiation in accordance with clause 18.1, the Parties may agree to refer the dispute to an independent third person with power to intervene and direct some form of resolution, in which case the Parties will be bound by that resolution. If the Parties do not agree to refer the dispute to an independent third person, either Party may initiate legal proceedings.

18.5 Each Party will bear their own costs in complying with this clause 18, and the Parties will share equally the cost of any third person engaged under clause 18.4.

18.6 The procedure for dispute resolution under this clause does not apply to any action relating to termination, cancellation or urgent interlocutory relief.

19.3.2 SPREP agrees, on receipt of the notice of termination, to:

- (a) stop the performance of SPREP's obligations;
- (b) take all available steps to minimise loss resulting from the termination; and
- (c) report on, and return any part of, the Payments to the DoEE, or otherwise deal with the Payments, as directed by the DoEE.

20. Cancellation or reduction for convenience

20.1 The DoEE may cancel or reduce the scope of this Agreement by notice, due to:

- (a) a change in government policy; or
- (b) a Change in the Control of SPREP which the DoEE reasonably believes will negatively affect SPREP's ability to comply with this Agreement.

20.2 On receipt of a notice of reduction or cancellation under this clause, SPREP agrees to:

- (a) stop or reduce the performance of SPREP's obligations as specified in the notice; and
- (b) take all available steps to minimise loss resulting from that reduction or cancellation; and
- (c) continue performing any part of the Activity or the Agreement not affected by the notice if requested to do so by the DoEE;
- (d) report on, and return any part of, the Payments to the DoEE, or otherwise deal with the Payments, as directed by the DoEE.

20.3 In the event of reduction or cancellation under this clause, the DoEE will be liable only to:

- (a) pay any part of the Payments due and owing to SPREP under this Agreement at the date of the notice; and
- (b) reimburse any reasonable and substantiated expenses SPREP unavoidably incurs that relate directly and entirely to the reduction in scope or cancellation of the Agreement.

20.4 In the event of reduction, the amount of the Payments will be reduced in proportion to the reduction in the scope of the Agreement.

20.5 The DoEE's liability to pay any amount under this clause is:

- (a) subject to SPREP's compliance with this Agreement; and
- (b) limited to an amount that when added to all other amounts already paid under the Agreement will not exceed the total amount of the Payments.

20.6 SPREP will not be entitled to compensation for loss of prospective profits or benefits that would have been conferred on SPREP but for the cancellation or reduction in scope of the Agreement under clause 20.1.

20.7 The DoEE will act reasonably in exercising its rights under this clause.

21. Survival

The following clauses survive termination, cancellation or expiry of this Agreement:

- clause 10 (Spending the Payments)
- clause 11 (Repayment);
- clause 12 (Record keeping)
- clause 13 (Reporting)
- clause 14 (Privacy);
- clause 15 (Confidentiality);
- clause 16 (Insurance)
- clause 17 (Intellectual property);

- Records includes documents, information and data stored by any means and all copies and extracts of the same.
- Reporting Material means all Material which SPREP is required to provide to the Commonwealth for reporting purposes as specified in this Agreement, including the Agreement Details, and includes any Existing Material that is incorporated in or supplied with the Reporting Material.