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GRANT ARRANGEMENT

This **GRANT ARRANGEMENT** expresses the understandings of the Government of Australia (represented by the **Department of Foreign Affairs and Trade**) (hereinafter referred to as "GoA") and **Secretariat of the Pacific Regional Environment Programme** (hereinafter referred to as "SPREP") (collectively referred to as "the Partners") regarding the provision of a grant by GoA to SPREP for GoA support to **Enhance efforts to address Oil Spill Risk from Potentially Polluting Wrecks in the Federated States of Micronesia** (hereinafter referred to as the ["Project"]) as further described and detailed in the **Phase 1 Design Plan** dated **13 October 2021** at **Annex 1** to this Arrangement (hereinafter referred to as the "Project Document").

This Arrangement is made under paragraph 5 of the Partnership Arrangement between the Government of Australia and the Secretariat of the Pacific Regional Environment Programme 2021 – 2031 (the 'Partnership').

1. OBJECTIVES

1.1 The objectives of the Project as follows:

- (a) The Federated States of Micronesia (FSM) is able to reduce the likelihood and impacts of oil spills from PPW by accelerating and enhancing the current efforts of the Japan Mine Action Service to remove oil trapped within the hulls of PPW in Chuuk Lagoon.
- (b) FSM is able to better manage the PPW in Chuuk Lagoon through the provision of technical information gathered by JMAS through assistance provided by the Major Projects Foundation (MPF).
- (c) FSM is able to enhance its contingency response capabilities to address oil pollution from PPW based on information and training

2. DURATION OF GoA SUPPORT TO THE PROJECT

- 2.1 **GoA support for the Project** will commence on the date this **Grant Arrangement** is signed by both partners (hereinafter referred to as the "Commencement Date").
- 2.2 **GoA support for the Project/Program etc.** will continue until no later than **24 March 2022** (hereinafter referred to as the "Completion Date") unless otherwise mutually determined by the Partners in writing.
- 2.3 SPREP will inform GoA in writing when the Project has been completed.

3. CONTACT REPRESENTATIVES

3.1 The contact representatives for each of the Partners will be:

(a) For GoA:

Contact Representative(s):

Name: **Jo Cowley**
 Position/Section: **Ambassador, Embassy of Australia**
 Street Address: **H&E Enterprises Building, Kolonia, Pohnpei**



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Postal Address: PO Box S, Kolonia, Pohnpei
 Telephone: +691 320 5449
 Facsimile: --
 Email: Jo.Cowley@dfat.gov.au

or other contact representative(s) and details as GoA may notify to SPREP in writing.

(b) For SPREP:

Contact Representative(s):

Name: Anthony Talouli
 Position/Section: Acting Director, Waste Management and Pollution Control Program
 Street Address: --
 Postal Address: PO Box 240, Apia, Samoa
 Telephone: +685 21929 ext 243
 Facsimile: --
 Email: anthonyt@sprep.org

or other contact representative(s) and details as SPREP may notify to GoA in writing.

4. THE CONTRIBUTION

4.1 GoA will contribute to SPREP a total amount of up to **AUD30,000** (hereinafter referred to as "the Contribution") in accordance with the payment schedule outlined below:

Table 1: Payment Schedule

Indicative Date	Tranche Number	Tranche Release Conditions	Amount (AUD)
Refer to Paragraph below	1		15,000
24 January 2022	2	DFAT's acceptance of two alternate project plans (provided on 24 January)	10,000
24 February 2022	3	DFAT's acceptance of final acquittal	5000
TOTAL CONTRIBUTION AMOUNT			30,000

- 4.2 GoA will pay tranche number 1 within thirty (30) days of signature of this Arrangement by both Partners and GoA receiving a payment request from SPREP.
- 4.3 GoA will pay subsequent tranches on or around the indicative dates set out above, subject to GoA receiving a payment request from SPREP and SPREP making satisfactory progress as determined by GoA.
- 4.4 GoA will deposit the Contribution into the following bank account:



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Name: SPREP USD Working Account
Account Number: 01-849599-07
Bank: BSP (Samoa) Ltd
Bank Address: Beach Road, PO Box 1860, Apia Samoa
SWIFT Code: BOSPWSWS

- 4.5 SPREP will immediately acknowledge to GoA in writing receipt of each Contribution.
- 4.6 Payment of the Contribution will be subject to GoA's budget allocation and the aid priorities of the Australian Government.
5. **ADMINISTRATION AND UTILISATION OF THE CONTRIBUTION AND IMPLEMENTATION OF THE PROJECT**
- 5.1 SPREP will administer the Contribution and the **PROJECT** in accordance with SPREP's regulations, rules, policies and procedures including those relating to procurement, anti-corruption, prevention, detection and investigation of fraud and recovery of funds the subject of fraud.
- 5.2 SPREP will:
- (a) maintain a sound administrative and financial management system capable of verifying financial statements;
 - (b) keep proper detailed accounts and records and asset registers and adequate **Project** records, providing clear audit trails in relation to expenditure of the Contribution;
 - (c) use the Contribution as outlined in the **Project Document**; and
 - (d) use any interest income earned on and attributable to the Contribution in accordance with SPREP's regulations, rules, policies and procedures.
- 5.3 SPREP will immediately inform GoA of any circumstance which may interfere or threaten to interfere with the successful implementation of the **Project OR purpose for which the Contribution has or will be provided** and, with a view to resolving the issue, will consult with GoA.
- 5.4 If, following consultation with SPREP, GoA is of the view that the Contribution has not been used as outlined in the **Project Document**, or in a manner consistent with the provisions of this Arrangement, or if GoA is of the view that changes have occurred that could negatively affect **achievement of the objectives of the Project OR the purpose for which the Contribution has or will be provided**, GoA may:
- (a) withhold or suspend any further payments to SPREP, until GoA is of the view that the issue has been satisfactorily resolved;
 - (b) reclaim all or part of the Contribution already paid to SPREP that has not been disbursed or irrevocably committed by SPREP in accordance with this Arrangement; and/or
 - (c) terminate this Arrangement (in which case the paragraph headed 'Termination' will apply).



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- 5.5 Any part of the Contribution and any interest income earned on and attributable to the Contribution that has not been expended on or committed for expenditure to the **Project** prior to the Completion Date will be refunded to GoA by SPREP by **24 March 2022**.
- 6. RECOGNITION OF THE CONTRIBUTION**
- 6.1 SPREP will acknowledge GoA's Contribution and any other relevant GoA support for the **Project** in any promotional material including speeches, media statements and publications. In doing so, SPREP will make it clear that SPREP is responsible for implementation of the **Project**, and that the Contribution is from GoA through the use of the Australian Aid identifier. Guidelines are available on the Department of Foreign Affairs and Trade's website.
- 7. PROJECT PLANNING**
- 7.1 SPREP will update the risk management plan for the **Project** provided as part of the **Project Document** at least **monthly**, based on performance information assessments. SPREP will provide GoA with updates to the risk management plan made during this Arrangement.
- 8. PROJECT OUTPUTS AND OUTCOMES REPORTING**
- 8.1 SPREP will provide GoA with the following **Project** reports in accordance with the following timeframe:
- (a) **by 24 January 2022 two alternate project plans (as detailed in the Project document)**
- 9. FINANCIAL REPORTING**
- 9.1 SPREP will provide GoA with the following financial reports in accordance with the following timeframe:
- (a) **By 24 February 2022** or any earlier termination of this Arrangement, a financial statement covering the period from the Commencement Date to the Completion Date, certified by the Comptroller of SPREP; and
- 10. PROCUREMENT**
- 10.1 If the Contribution is used for procurement, SPREP will ensure that:
- (a) the procurement is undertaken in a manner that achieves value for money;
- (b) the procurement promotes the use of resources in an efficient, effective and ethical manner; and
- (c) decisions regarding the procurement are made in an accountable and transparent manner.
- 11. FRAUD**
- 11.1 For the purpose of this paragraph, 'fraudulent activity', 'fraudulent' or 'fraud' means: dishonestly obtaining a benefit, or causing a loss, by deception or other means.



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- 11.2 SPREP, its Delivery Organisations and its subcontractors will not engage in any fraudulent activity. SPREP is responsible for preventing and detecting fraud.
- 11.3 SPREP will report in writing within 5 working days to GoA any detected, suspected, or attempted fraudulent activity involving an Initiative.
- 11.4 In the event of detected, suspected or attempted fraud and in consultation with GoA, SPREP will develop and implement a strategy to investigate, based on the principles set out in the Australian Government Investigations Standards. SPREP will undertake the investigation at SPREP's cost.
- 11.5 Following the conclusion of an investigation, where the investigation finds SPREP, an employee or a subcontractor of SPREP, the Delivery Organisation, an employee or a subcontractor of the Delivery Organisation has acted in a fraudulent manner, SPREP will:
- (a) where money has been misappropriated, pay to GoA the full value of the Grant funds that have been misappropriated; or
 - (b) where an item of property has been misappropriated, either return the item to GoA or if the item cannot be recovered or has been damaged so that it is no longer usable, replace the item with one of equal quality;
 - (c) refer the matter to the relevant Partner Country police or other authorities responsible for prosecution of fraudulent activity; and
 - (d) keep GoA informed, in writing, on a monthly basis, of the progress of the recovery action.
- 11.6 Following the conclusion of an investigation, where the investigation finds that a person or entity other than SPREP, an employee or subcontractor of SPREP, the Delivery Organisation, an employee or a subcontractor of the Delivery Organisation, have acted in a fraudulent manner, SPREP will, at SPREP's cost:
- (a) make every effort to recover any Grant funds or funded property acquired or distributed through fraudulent activity, including without limitation, the following:
 - (i) take recovery action in accordance with recovery procedures, including civil litigation, available in the Partner Country;
 - (ii) refer the matter to the relevant Partner Country police or other authorities responsible for prosecution of fraudulent activity; and
 - (iii) keep GoA informed, in writing, on a monthly basis, of the progress of the recovery action.
- 11.7 If SPREP considers that after all reasonable action has been taken to recover the Grant funds or funded property and full recovery has not been achieved or recovery has only been achieved in part, SPREP may seek approval from GoA that no further recovery action be taken. SPREP will provide to GoA all information, records and documents sought by GoA to enable the GoA delegate to make a decision on whether to approve non-recovery of Grant funds or funded property.



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12. COUNTER TERRORISM

- 12.1 Consistent with UN Security Council Resolutions relating to terrorism, including UNSC Resolution 1373 (2001) and 1267 (1999) and related resolutions, both GoA and SPREP are firmly committed to the international fight against terrorism, and in particular, against the financing of terrorism. It is the policy of GoA to seek to ensure that none of its funds are used, directly or indirectly, to provide support to individuals or entities associated with terrorism. In accordance with this policy, SPREP undertakes to use its best endeavours to ensure that funds provided under this Arrangement are not used to provide support to individuals or entities associated with terrorism. If, during this Arrangement, SPREP discovers a link with any organisation or individual associated with terrorism, it will inform GoA immediately.
- 12.2 SPREP acknowledges that the Australian Government has adopted a policy and laws consistent with relevant international counter-terrorism treaties and UN Security Council Resolutions 1267 (1999), 1373 (2001) and successor resolutions of not providing direct or indirect support or resources to organisations and individuals associated with terrorism.
- 12.3 SPREP will use its best endeavours to ensure that funding provided under this Arrangement is expended in a manner consistent with international counter-terrorism treaties, UN Security Council Resolutions on terrorism and related Australian laws. If, during this Arrangement, SPREP discovers any link whatsoever with any organisation or individual listed by the United Nations 1267 Committee or the Australian Government as associated with terrorism, it will inform GoA immediately.

13. ANTI-CORRUPTION

- 13.1 GoA and SPREP are committed to preventing and detecting corruption and bribery. SPREP through its employees, agents or representatives will not make or cause to be made, or receive or seek to receive, any offer, gift or payment, consideration or benefit of any kind, which would or could be construed as an illegal or corrupt practice, either directly or indirectly to any partner, as an inducement or reward in relation to the implementation of this Arrangement. SPREP will promptly notify GoA of any suspected or detected corruption or bribery affecting this Arrangement and actions taken by SPREP in response.
- 13.2 SPREP will use its best endeavours to ensure that any employee, agent, representative or other entity involved in under this Arrangement will also adhere with this paragraph headed 'Anti-Corruption'.
- 13.3 Following the conclusion of an investigation, where the investigation finds that a person or entity other than SPREP, an employee or subcontractor of SPREP, the delivery organisation, an employee or a subcontractor of the delivery organisation, have acted in a fraudulent manner, SPREP will, at SPREP's cost:
- (a) make every effort to recover any Grant funds or funded property acquired or distributed through fraudulent activity, including without limitation, the following:
 - (b) take recovery action in accordance with recovery procedures, including civil litigation, available in the Partner Country;
 - (c) refer the matter to the relevant Partner Country police or other authorities responsible for prosecution of fraudulent activity; and



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(d) keep GoA informed, in writing, on a monthly basis, of the progress of the recovery action.

13.4 If SPREP considers that after all reasonable action has been taken to recover the Grant funds or funded property and full recovery has not been achieved or recovery has only been achieved in part, SPREP may seek approval from GoA that no further recovery action be taken. SPREP will provide to GoA all information, records and documents sought by GoA to enable the GoA delegate to make a decision on whether to approve non-recovery of Grant funds or funded property.

14. AUDIT

14.1 The Contribution and all financial statements will be subject to the internal and external independent auditing procedures provided for in SPREP's financial regulations, rules, policies and procedures.

14.2 SPREP will promptly provide GoA with copies of its internal and external independent audit reports.

14.3 If an audit report or auditing procedure reveals any irregularities relevant to the Contribution, SPREP will immediately bring the information to the attention of GoA.

14.4 GoA and its authorised representatives may audit and inspect SPREP's financial records which relate to this Arrangement. SPREP will provide adequate facilities for audit and inspection of its financial records pertaining to this Arrangement at all reasonable times and allow copies and extracts to be taken.

15. ASSETS, EQUIPMENT AND SUPPLIES

15.1 Ownership of any assets, equipment or supplies purchased with the Contribution will vest in SPREP. SPREP may transfer the ownership of those assets, equipment or supplies in accordance with its relevant policies and procedures.

16. MONITORING, REVIEW AND EVALUATION

16.1 GoA may participate in any formal review or evaluation of the **Project** undertaken by SPREP. SPREP will inform GoA of any planned formal reviews or evaluation and will invite GoA to participate in such reviews or evaluations.

16.2 GoA may initiate a formal review or evaluation of the **Project**. GoA will inform SPREP of any planned formal reviews or evaluation and will invite SPREP to participate in such reviews or evaluations.

17. INTELLECTUAL PROPERTY

17.1 SPREP and GoA will retain all Intellectual Property Rights held in their respective existing material.

17.2 SPREP owns the Intellectual Property Rights in material created by SPREP and GoA arising from the Project. SPREP grants to the GoA a permanent, world-wide, non-exclusive, irrevocable, royalty-free licence to use for any purpose any material with Intellectual Property Rights arising in relation to Project undertaken under this Grant Arrangement.



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- 17.3 SPREP will ensure that GoA's use of material arising in relation to the Project will not infringe the Intellectual Property Rights of any person that contributed to the material.
- 17.4 SPREP will work with the MPF to deliver the Project, and will ensure that any agreement or arrangement that it enters into with MPF in connection with the Project includes the following requirements:
- (a) MPF retains ownership of all Intellectual Property Rights in material produced by MPF arising from the Project;
 - (b) MPF grants a non-exclusive, worldwide, transferable, fully-paid and perpetual licence to the Japan Mine Action Service, the Governments of Australia and the Federated States of Micronesia and SPREP, and those they authorise, to use the Intellectual Property Rights in the material.
- 17.5 For the purposes of this Grant Arrangement, the term "Intellectual Property Rights" means:
- all intellectual property rights, including:
- (a) copyright, patents, trade marks (including goodwill in those marks), designs, trade secrets, know how, rights in circuit layouts, domain names and any right to have confidential information kept confidential;
 - (b) any application or right to apply for registration of any of the rights referred to in paragraph (a); and
 - (c) all rights of a similar nature to any of the rights in paragraphs (a) and (b) which may subsist in Australia or elsewhere, whether or not such rights are registered or capable of being registered.

18. AMENDMENTS

- 18.1 This Arrangement (including any annexes, attachments or the like) may be amended at any time as mutually determined between the Partners in writing by way of exchange of letters.

19. TERMINATION

- 19.1 This Arrangement may be terminated at any time by either Partner by way of notice in writing to the other Partner.
- 19.2 Prior to terminating this Arrangement, the Partner contemplating termination will endeavour to consult with the other Partner.
- 19.3 If this Arrangement is terminated by either Partner, SPREP will continue to hold any unexpended amount of the Contribution paid to SPREP, until all payment commitments incurred, in accordance with this Arrangement, prior to the date of receipt of the notice of termination, have been satisfied. SPREP will promptly refund to GoA any part of the Contribution (including any interest income) that remains unexpended after any such payment commitments have been satisfied, unless GoA at its absolute and sole discretion decides formally in writing that SPREP may use any such funds for the same purpose and consistent with the provisions of this Arrangement.



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20. STATUS OF ARRANGEMENT

- 20.1 This Arrangement serves only as a record of its Partners' intentions and does not constitute or create (and is not intended to create) obligations under domestic or international law and will not give rise to any legal process and will not be deemed to constitute or create any legally binding obligations (expressed or implied).

21. DISPUTE SETTLEMENT

- 21.1 Any dispute, controversy, or claim, which arises out of the interpretation or application of this Arrangement, will not be subject to adjudication or arbitration; but will instead be dealt with through amicable consultations and negotiations as the only method of achieving the peaceful settlement of that dispute, controversy, or claim.

22. REQUEST FOR PAYMENT

- 22.1 SPREP will submit to GoA a request for payment of the Contribution when due in accordance with this Arrangement, in a form identifying the Arrangement title, the Arrangement number and the Payment Event number(s) notified by GoA.

- 22.2 All requests for payment will be made to:

Chief Finance Officer
 Department of Foreign Affairs and Trade
 R.G Casey Building
 John McEwen Crescent
 Barton ACT 0221
 AUSTRALIA

- 22.3 Alternatively GoA will accept electronic requests for payment. These can be sent to: accountsprocessing@dfat.gov.au and should also be copied to the GoA contact representative/s specified in this Arrangement.

23. GENDER, EQUITY AND SOCIAL INCLUSION PRINCIPLES

- 23.1 GoA has committed to supporting partners to integrate gender equality and women's empowerment into policies, legislation and programs and strengthen the collection and analysis of data to better track outcomes.
- 23.2 The integration of gender, equity and social inclusion principles is a priority of all Australian aid funded projects and consistent with paragraph 6 of the Partnership, the inclusion of Gender, Equity and Social Inclusion principles will be a key performance indicator for the **Project**.

24. PREVENTION OF SEXUAL EXPLOITATION AND HARASSMENT

- 24.1 GoA and SPREP 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, including for sub-contracted parties under the Project.



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- 24.2 GoA and SPREP undertake to immediately inform the other partner of any credible suspicions, or actual incidents of sexual exploitation, abuse or harassment, against or by any person linked to the **Project**

25. CHILD PROTECTION

- 25.1 GoA and SPREP have a zero-tolerance approach towards child exploitation, abuse and or harm and undertake to act in a manner consistent with the principles of the Department of Foreign Affairs and Trade's Child Protection Policy accessible at: www.dfat.gov.au/childprotection.
- 25.2 GoA and SPREP will abide by their own relevant policies, international declarations, conventions, agreements and domestic legal frameworks that relate to child protection and accept to take timely action, including investigation, in accordance with these commitments, including for sub-contracted parties under the Project
- 25.3 Where practicable, the SPREP will consult with GoA prior to the publication or release of information relating to Child Protection.

26. ENVIRONMENTAL PROTECTION

- 26.1 SPREP is responsible for ensuring the protection of the environment in accordance with Federated States of Micronesia (FSM) national/local laws, rules, regulations and standards and any international environmental obligations, including International treaties signed or ratified by FSM relating to the environment; and in accordance with DFAT's Environment and Social Safeguards Policy accessible at: Environmental and Social Safeguard Operational Procedure - Australian Government Department of Foreign Affairs and Trade (dfat.gov.au) (hereinafter referred to as "relevant environmental policies").
- 26.2 GOA may request SPREP to provide official records which demonstrate the Program has adhered with relevant environmental policies. For the purposes of this provision "Official Record" means any report, record, verification document or certificate issued by a recognised and appropriate environmental authority certifying the adherence of the Program. GOA may request all information, records, certificates and reports documenting any processes and procedures followed during the environmental assessment that informed the issuing of the Official Record of compliance to enable GOA to decide whether relevant environmental obligations and commitments have been adhered to and met. Consent to provide this information will not be unreasonably withheld.
- 26.3 If the Program is assessed by GOA/SPREP as having high or medium environmental risks, the relevant risks will be articulated in the Program Risk Management Plan and SPREP will manage those risks according to environment management plans in the design document.
- 26.4 SPREP is responsible for reporting to GOA any actual or potential failure to adhere with applicable environment laws, rules, regulations and standards or any measures set out in the risk or environmental management plans, immediately after becoming aware of the breach.
- 26.5 SPREP will promptly inform GOA in writing of any unanticipated or emergency incidents relating to the Program that may have a negative impact on the environment. SPREP is responsible for developing and implementing appropriate remedial measures to address the impacts of such incidents in accordance with FSM's national laws, rules, regulations and standards and obligations.



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27. TRANSPARENCY

27.1 GoA and SPREP are both committed to principles of transparency. GoA will periodically publish detailed information about work under this Arrangement on the Department of Foreign Affairs and Trade's website. This will include information about SPREP's policies, plans, processes, the results of the SPREP's aid activities and evaluations of SPREP's performance. GoA and SPREP will consult prior to publication or release of information regarded as sensitive (for example, fraud or corruption matters).

28. FAMILY PLANNING AND THE AID PROGRAM

28.1 SPREP acknowledges and will act in accordance with the guideline titled Family Planning and the Aid Program: Guiding Principles accessible at <https://www.dfat.gov.au/about-us/publications/Pages/family-planning-and-the-aid-program-guiding-principles>.

Signed by authorised officials of the Partners in duplicate in the English language

FOR the GOVERNMENT OF AUSTRALIA
represented by the Department of Foreign
Affairs and Trade

Jo Cowley
Signature

Jo Cowley
Ambassador, Pohnpei Post, DFAT

15 November 2021
Date

FOR the Secretariat of the Pacific Regional
Environment Programme:

Kosi Latu
Signature

KOSI LATU
Name

DIRECTOR GENERAL
Position

18/11/2021
Date

