**AGREEMENT**

# OIL SPILL RESPONSE LIMITED

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

**Mobilising Parties**

**«FullAgmtStart» – «End\_Date»**

**THIS AGREEMENT** is made the day of 20

**BETWEEN**:

1. **OIL SPILL RESPONSE LIMITED** a company incorporated in United Kingdom registered in Singapore, UEN T06FC6915A and whose registered office is at 25C Loyang Crescent Singapore 506818 (hereinafter referred to as "the Company") and
2. **Secretariat of the Pacific Regional Environment Programme (SPREP)** an intergovernmental organisation established under the laws of Government of Samoa, which has its registered office at Avele Road, Vailima, Apia Samoa (hereinafter referred to as "the Associate")

and

1. Each Mobilising Party

**WHEREBY IT IS AGREED** as follows:-

1. DEFINITIONS

In this Agreement unless the context otherwise requires:

* 1. An "Affiliate" of any company means any company, which is owned by, which owns, or is under common ownership with, that company. For this purpose "ownership" may be direct or indirect; direct ownership being through holding more than fifty per cent of the shares carrying rights to vote at a general meeting of the company (or its equivalent) or holding ordinary shares carrying a majority of votes at a general meeting (or its equivalent) of the company and indirect ownership being through a series of companies each being directly owned by one or (by aggregate shareholdings) more of the previous companies in the series. Any Affiliate which shall at any time cease to own, be owned by, or be under common ownership with the company concerned as aforesaid shall cease at such time to be an Affiliate of that company;
  2. "Mobilising Party’s Area of Coverage" means anywhere within the territorial sea of the Mobilising Party, the waters of the exclusive economic zone of the Mobilising Party, and the waters beyond the outer limits of the exclusive economic zone of the Mobilising Party but not over any continental shelf of the Mobilising Party, only;
  3. "Available Equipment" has the meaning ascribed to it in Clause 3.1;
  4. "Available Staff" has the meaning ascribed to it in Clause 3.1;
  5. "the Base" means the Company’s base at Southampton or at such other convenient location or locations in the United Kingdom, Singapore or elsewhere as may be notified by the Company to the Associate and Mobilising Parties;
  6. "Contractors" means any person, firm or company or persons, firms or companies for the time being engaged by the Company to provide any services to the Company;
  7. “Malpractice” includes giving or receiving any financial or other advantage that may be construed as a bribe or planning, making arrangements or agreeing to receive any financial or other advantage that may be construed as a bribe;
  8. “Mobilising Party” an individual state entity located in the Pacific Ocean comprising of the following only; American Samoa, Cook Islands, Federated States of Micronesia, Fiji, French Polynesia, Guam, Kiribati,  Marshall Islands, Nauru, New Caledonia, Niue, Commonwealth of Northern Mariana Islands, Palau, Papua New Guinea, Samoa, Solomon Islands, Tokelau, Tonga, Tuvalu, Vanuatu and Wallis and Futuna which has properly executed a counterpart to this Agreement and being identified as such by inclusion in the list of Mobilising Party’s set out in Schedule 4 hereof
  9. "Oil" means crude petroleum oil or any fraction thereof or any liquid petroleum products;
  10. “Parties”: means the Company, the Associate and all of the Mobilising Parties listed in Clause 1.8 and “Party”: means either the Company, the Associate or one of the Mobilising Parties listed in Clause 1.8 as the context so admits for or on behalf of itself and/or in the case of the Company its Affiliates;
  11. "Service Level Agreement" means the service level agreement for the operation of the Base, which is attached to this Agreement as Schedule 2, as from time to time adopted and amended from time to time by the Company;
  12. “State Entity” means an organisation or company which is owned or part owned by the government of the country in which it is registered;
  13. “Contract Year” means a period of twelve (12) months following the Start Date or anniversary of the Start Date;

References in this Agreement to "Clause" or "Schedule" are references to clauses of this Agreement and schedules to this Agreement.

1. PERIOD

This Agreement shall come into force no later than [«Start\_Date» ] ("the Start Date") and shall, subject to the provisions for earlier termination herein contained, have a duration terminating no later than [«End\_Date - Start Date + 3 years»] but may be renewed by agreement in writing between the Company and the Associate.

1. RIGHTS OF THE MOBILISING PARTY
2. In consideration of the payments to be made hereunder, by the Associate for and on behalf of the entities listed in Schedule 4 hereof each a Mobilising Party, and the other undertakings herein entered into, a Mobilising Party shall subject to Clauses 3.4 and 3.6, be entitled only for the purposes set out in Clause 3.2 and during the continuance of this Agreement, and in accordance with the terms hereof and the terms of the Service Level Agreement to call upon and hire such of the Company’s equipment which at the time of request to hire is to be found at the Base and has not been otherwise allocated ("Available Equipment") and such of the Company’s operating staff who at the time of request to hire are employed at the Base and have not otherwise been allocated ("Available Staff") (or such lesser amount of equipment or number of staff as the Mobilising Party may request).
3. The Available Equipment and Available Staff may be called upon and hired by the Mobilising Party in exercise of the Mobilising Party’s rights under Clause 3.1 for the purpose of dealing with an oil spill or oil discharge or escape occurring or about to occur at or from the Mobilising Party’s Area of Coverage which includes, without limitation, an oil discharge from a pipeline into the sea, any waterway or onto land. The relevant Mobilising Party and the Company shall together plan appropriate emergency responses to oil spills at or from the Mobilising Party’s Area of Coverage.
4. The Company may at its discretion from time to time hire or supply to the Mobilising Party for use by the Mobilising Party at the Mobilising Party’s Area of Coverage any equipment and/or operating staff requested by the Mobilising Party and available at the Base, in addition to the equipment and operating staff to which the Mobilising Party is entitled under Clause 3.1 and 3.2. The provisions of this Agreement shall apply in respect of such additional hiring and supply unless otherwise agreed between the Company and the Mobilising Party, except as to the rate of hire, which will be determined in accordance with Clause 5.7.
5. The Company gives no undertaking and shall bear no liability whatsoever in respect of the quantity of equipment which shall be found available at the Base or the number of the Company staff available at any time and reserves the right to allocate any equipment or staff as it considers fit.
6. The Company may at any time decline to supply, provide or make available any of the equipment, personnel, facilities or other services which are the subject of this Agreement or to follow or carry out any request of the Mobilising Party pursuant to this Agreement if to do so would in the opinion of the Company be prejudicial to the future availability of equipment and operating staff at the Base or to the viability of the Base.
7. A Mobilising Party by countersigning this Agreement accepts and agrees that in the event of a mobilisation triggered by notice from the Mobilising Party/its authorised representative or their nominee, the Mobilising Party shall be responsible for all call out fees as if all references to the Associate hereunder were a reference to the Mobilising Party and the Mobilising Party’s countersignature constitutes valid and effective execution of this Agreement with the Company.
8. ANNUAL FEE
9. Prior to the Start Date and in consideration of the rights granted to the Mobilising Party hereunder, the Associate shall pay to the Company the sum of US$56,500 (United States Dollars fifty six thousand five hundred) net of all taxes ("the Annual Fee") plus a one off joining fee of US$11,000 (United States Dollars Eleven Thousand) net of all taxes by electronic bank transfer to the Company’s account No 260-532304-178, Swift Code HSBCSGSG at HSBC Singapore, Collyer Quay Branch, 21 Collyer Quay #01-01, HSBC Building, Singapore 049320. The Annual Fee shall be paid in respect of the period of the first Contract Year following the Start Date.
10. The Annual Fee (“the Annual Fee”) payable for the subsequent two (2) Contract Years commencing on the anniversary of the Start Date will be the sum of US$56,500 (United States Dollars FIFTY-SIX THOUSAND and FIVE HUNDRED) net of all taxes payable prior to the start of the applicable Contract Year.
11. The parties shall agree an annual fee to be paid by the Associate in respect of any renewal of this Agreement pursuant to Clause 2 prior to the date of such renewal. The Parties further agree that the benefit afforded to each Mobilising Party shall accrue from time to time where the Associate shall renew this Agreement and the Mobilising Party shall not be required to re-execute a counterpart of this Agreement at each renewal.
12. CALL OUT FEES
13. The Mobilising Party shall pay to the Company in respect of each item of equipment hired or made available under sub-Clause 3.1 in the circumstances set out in sub-Clause 3.2 a fee calculated at the rates which appear in Schedule 1 either in respect of any period during which the equipment is in use (and not in transit or on standby) or in respect of any period during the period of hire in which the equipment is not in use.
14. Such rates are per day or for part of a day and for the purposes of this Clause a “day” shall mean a period of twenty-four (24) hours from the time that notice is received that the Mobilising Party requires the equipment for its use, and any subsequent period of twenty four (24) hours.
15. When on account of the provision of additional equipment or the replacement of certain equipment with other equipment, there appears in Schedule 1 no rate for the equipment in question, the rate which the Mobilising Party shall pay to the Company in respect thereof shall be that rate which is notified in writing by the Company to the Associate and Mobilising Party as soon as practicable following the receipt of the Mobilising Party’s notice of requirements.
16. Where the equipment hired hereunder is in any one day part of the time in use and part of the time not in use then in respect of that day the higher rate shall apply.
17. In respect of personnel supplied hereunder the Mobilising Party shall pay to the Company the rates stipulated in Schedule 1. The Company shall have absolute discretion in determining the personnel which the Company shall provide under this Agreement. The Company expressly reserves the right at its sole discretion to at any time (including during a response) substitute the personnel provided under this Agreement.
18. The rates specified in Schedule 1 shall be reviewed as of each 1st January by the Shareholders of the Company. The parties agree that the new rates following the review shall automatically apply to this Agreement.
19. In respect of additional equipment and operating staff hired or made available to the Mobilising party under Clause 3.3 the Mobilising Party shall pay to the Company fees at the rate specified by the Company at the time the said equipment and/or operating staff is made available or hired.
20. OBLIGATIONS OF THE COMPANY

Except as expressly provided herein, the Company hereby undertakes during the term of this Agreement that it and/or its Affiliates shall base at the Base such reasonable level of equipment and such reasonable number of operating staff as the Company shall consider appropriate bearing in mind the Company’s commitment to its members. The Company shall arrange that such equipment be kept in good working order, that such staff shall be thoroughly familiar with and knowledgeable in the operation of all equipment to be made available for hire pursuant to this Agreement and the procedures set out in the Service Level Agreement and will operate and maintain the equipment in the field under the direction of the Mobilising Party, subject to the rights of the Company provided in Clause 7.

1. CONTROL OF OPERATIONS AND EQUIPMENT
2. The responsibility for the control of all matters at the location of the clean-up operation shall be that of the Mobilising Party provided that the Company or any of its employees may decline to carry out any instruction and take any action it or they see fit in any situation where the safety of personnel may be at risk and as to whether any such situation exists shall be at the sole discretion of the Company and those of the Company’s employees who are present at the clean-up operations.
3. During the period of hire of any equipment hereunder the Mobilising Party shall:-
   1. take all reasonable steps necessary on its part to protect and preserve such equipment in good working order;
   2. keep the Company fully informed of the location of the equipment and of any malfunctioning thereof or loss of or damage thereto;
   3. not part with possession of the equipment without the prior consent of the Company;
   4. permit the Company or the Contractors or the employees or agents of either of them such access to such equipment as they may reasonably request;
   5. take all such steps as may be necessary to keep such equipment free from all liens, charges and encumbrances, and to prevent such equipment becoming the property of any person other than the Company or the Contractors;
   6. not make or allow to be made any modification or alteration to any of such equipment otherwise than by personnel provided by the Company hereunder or with the prior consent of the Company or the Contractors; and
   7. be responsible for complying with and obtaining any necessary permissions under any laws for the time being applying in any country in which such equipment may be during the period of hire and relating to the operation of such equipment or the work of personnel provided under this Agreement and for dealing with any customs formalities entry permits or other matters in connection with use or return of such equipment hereunder and the personnel provided hereunder. All taxes, duties, custom bonds or other fiscal imposts shall be the responsibility of the Mobilising Party and the Mobilising Party shall indemnify the Company in accordance with Clause 10.8.
4. TRANSPORT

Unless otherwise agreed with the Company, the Company shall deliver the equipment to the primary international airport within the Mobilising Party’s Area of Coverage (“the Port”). Transportation from the Port to the site of operations and all travel arrangements for personnel shall be the responsibility of the Mobilising Party. The Mobilising Party shall consult with the Company and keep the Company fully informed of all such arrangements.

1. EXPENSES

In addition to the other charges provided for in this Agreement, the Mobilising Party shall, upon receipt of proper invoices, make payment to the Company in respect of:

1. all transport and travel made as a consequence of the hire of equipment and personnel made available hereunder including the costs of transportation to the Port and any other costs incurred by the Company;
2. reasonable accommodation and living expenses incurred by the Company in respect of the personnel made available hereunder;
3. the cost of cleaning and rehabilitating equipment hired hereunder. For this purpose materials and services will be charged at cost and work at man/hour rates to be specified for personnel from time to time by the Company.
4. LIABILITY AND INDEMNITIES

The parties hereto recognise and acknowledge that many varying factors affect the success or otherwise of an oil spill clean-up operation and the performance of the equipment involved and that success in any event can be relative and accordingly agree that any condition warranty or representation as to the quality or fitness for purpose of any equipment to be found at the Base or as to the effect of any advice given is inappropriate **NOW THEREFORE**:-

1. All representations conditions and warranties in respect of the equipment which is the subject of this Agreement relating to its quality, fitness for purpose, or otherwise whether implied by statute or by common law or otherwise are hereby excluded;
2. Any advice offered is to be construed as a statement of opinion only and not as a representation of any kind as to the effects of following such advice;
3. The Company shall exercise reasonable skill, care and diligence in the discharge of its obligations under or arising out of the performance of this Agreement but in respect of any loss or damage of whatsoever nature or howsoever caused which in any way arises out of or is connected with the performance, mis-performance or non-performance by or on behalf of the Company of such obligations or the equipment or staff supplied hereunder;
   1. the liability of the Company, its Affiliates, and its or their employees, contractors or agents (whether in contract or in tort) shall be limited to any case of negligence or wilful misconduct on their part and shall then not exceed the amount of daily fees paid under this Agreement for the item or items of equipment or members of staff concerned to the exclusion of all other liability;
   2. the Associate/Mobilising Party agrees that it shall take no proceedings against any employee, shareholder, Affiliate, contractor or agent of the Company or any employee or agent of any of them, but shall look solely to the Company under the provisions of Clause 10.3.1 above;
4. Subject to Clause 10.3, a Mobilising Party shall at all times during and after the term of this Agreement, keep the Company, its Affiliates and its and their employees, Contractors and agents indemnified against any claim, demand, action, proceeding or liability of whatsoever nature arising out of or in any way connected with this Agreement or the performance, mis-performance or non- performance (whether negligent or otherwise, and howsoever a head of damage may be formulated and including any claim, demand, action or proceeding in respect of the equipment supplied) by or on behalf of the Company of its obligations under or arising out of this Agreement, brought or instituted against the Company or its Affiliates or its or their employees, Contractors or agents by any third party (including any claims from the Contractors);
5. For the purposes of this Clause 10:
6. The Company shall be deemed to be acting as agent for and on behalf of its Affiliates and its and their employees and agents and the benefit of the provisions of this Clause 10 shall extend to all such Affiliates, employees and agents.
7. The Associate shall during and after the period of this Agreement keep the Company and its Affiliates and its and their employees and agents indemnified against all claims, demands, actions or proceedings brought by or on behalf of any or of its employees and agents, arising from any matter related to or connected with this Agreement to the extent that such claim, demand, action or proceeding could not, by virtue of this Clause 10 be brought by the Associate;
8. The Mobilising Party shall during and after the period of this Agreement keep the Company and its Affiliates and its and their employees and agents indemnified against all claims, demands, actions or proceedings brought by or on behalf of any of the Mobilising Party’s employees and agents, arising from any matter related to or connected with this Agreement to the extent that such claim, demand, action or proceeding could not, by virtue of this Clause 10 be brought by the Mobilising Party;
9. The term "agent" or "agents" where used in Clauses 10.3, 10.4 and

10.5 shall include where appropriate the employees of the agent or agents referred to.

1. The Mobilising Party undertakes to maintain in full force and effect insurance policies which shall provide cover for and against any liability arising out of or in connection with any oil spill or escape of oil or other hydrocarbons, waste or other hazardous materials from or within the Mobilising Party’s Area of Coverage (including, without limitation, the costs of cleaning up such a spill or escape) and in respect of all of the Mobilising Party’s liabilities under this Agreement. Such insurance policies shall provide at least the minimum level of cover agreed between the parties. The Mobilising Party undertakes to have the Company noted on the relevant policies as an additional insured party.
2. At the Company’s request, the Mobilising Party shall provide appropriate evidence of compliance with the requirements of Clause 10.6 and shall provide the Company with certified copies of the relevant certificates of insurance.
3. The Associate, with respect to the Annual Fee and Joining Fee only and the Mobilising Party with respect to all matters except in relation to the Annual Fee and Joining Fee, shall indemnify and keep indemnified the Company against all forms of taxation and fiscal imposts of whatsoever nature levied upon or against the Company in any jurisdiction other than the United Kingdom arising out of or in connection with the Company’s performance of this Agreement, including, without limitation, taxation, any other withholdings and any customs or import or export duties or customs bonds.
4. LOSS OR DAMAGE

The Mobilising Party shall indemnify and reimburse the Company in respect of any loss or damage to the equipment supplied hereunder (other than normal wear and tear) and shall maintain a policy or policies of insurance in such amount as may be approved by the Company in respect of any loss of or damage to the equipment which is the subject of this Agreement from the time of delivery of such equipment to the nominated port or airport until the return of such equipment to the Base at the end of the period of hire. At the request of the Company, at any time the Mobilising Party will furnish the Company with such evidence of such insurance cover as the Company may request.

1. RETURN OF EQUIPMENT
2. The Mobilising Party shall be responsible for the return of the equipment, which is the subject of this Agreement to the Base at the end of the period of hire. The period of hire includes the time from which the equipment leaves the Base until the equipment is returned to the Base.
3. Notwithstanding any of the other provisions hereof, in the event that any equipment which is the subject of this Agreement, is not returned to the Base at the end of the period of hire or is lost or damaged other than by normal wear and tear until such time as the equipment in question is returned or has been replaced by substitute equipment as the case may be, the Mobilising Party shall pay to the Company in respect thereof the fees calculated at the rate set out in Schedule 1 and the period of hire shall be deemed to continue for such purpose.
4. Notwithstanding Clause 15.3, the Company shall be entitled to retain any monies belonging to the Mobilising Party held by the Company and to set-off against any payments due to the Mobilising Party by the Company hereunder any amounts which the Company considers reasonable in order to fully compensate the Company against the consequences of any breach of this Clause 12 or any other provision of this Agreement by the Mobilising Party.
5. PAYMENT OF FEES AND OTHER CHARGES

Payments to be made hereunder shall be made by the Mobilising Party within thirty (30) days of the date of receipt of the invoice (other than the Annual Fee which shall be invoiced to the Associate and paid on or prior to the Start Date by the Associate) and in respect of any other fees or charges by a Mobilising Party without prejudice to the Company’s other rights, payments outstanding after that period (or in the case of the Annual Fee, after the Start Date) shall bear interest until payment at three (3) per cent above the HSBC Bank base rate current from time to time during the period in question. If any deduction or withholding in respect of tax or otherwise is required by law to be made from any sums payable by the Mobilising Party to the Company, the Mobilising Party shall be obliged to pay to the Company such greater sum as will, after such deduction or withholding is made, leave the Company with a payment for the same amount as it would have been entitled to receive in the absence of any requirement to make such reduction or withholding.

1. FRAUD, BRIBERY AND CORRUPTION
2. The Parties to this Agreement shall:
   1. comply with all laws, regulations, codes and sanctions relating to anti- bribery and anti-corruption including but not limited to the United Kingdom Bribery Act 2010 (“the Bribery Act 2010”), the U.S. Foreign Corrupt Practices Act (“FCPA”), and anti-corruption laws of other countries applicable to the Associate and each Mobilising Party (collectively, “Relevant Requirements”);
   2. not engage in any activity, practice or conduct which would constitute an offence under the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;
   3. comply with the Company's Anti-bribery and Corruption Policies notified to the Associate from time to time (“Relevant Policies”);
   4. have and shall maintain in place throughout the term of this Agreement its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements, the Relevant Policies and this Clause 14, and will enforce them;
   5. promptly report to the Company any request or demand for any undue financial or other advantage of any kind received by the Associate or a Mobilising Party in connection with the performance of this Agreement;
   6. immediately notify the Company if a foreign public official becomes an officer or employee of the Associate or acquires a direct or indirect interest in the Associate (and the Associate warrants that it has no foreign public officials as officers, employees or direct or indirect owners at the date hereof) it being acknowledged by the Parties that merely contracting with a State Entity or subsidiary or affiliate thereof, absent any breach of the Bribery Act 2010, is not in itself a breach of this Clause 14;
   7. upon signature hereof and annually thereafter on renewal of this Agreement, certify to the Company in writing signed by a duly authorised officer of the Associate/Mobilising Party, compliance with this Clause 14 by the Associate and all persons associated with it and all other persons for whom the Associate/Mobilising Party is responsible under this Agreement. Accordingly, the Associate and the Mobilising Party shall sign and return the enclosed Annual Certificate of Compliance appended to this Agreement under Schedule 3.
3. The Associate/Mobilising Party shall ensure that any person associated with the Associate/Mobilising Party who is performing services or is otherwise involved in connection with this Agreement does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Associate/Mobilising Party by this Clause 14 (“Relevant Terms”). The Associate/Mobilising Party shall be responsible for the observance and performance by such persons of the Relevant Terms, and shall be directly liable to the Company for any breach by such persons of any of the Relevant Terms.
4. For the purpose of this Clause 14, the meaning of adequate procedures and foreign public official and whether a person is associated with another person shall be determined by reference to the Bribery Act 2010 and any guidance issued in connection with the Bribery Act 2010.
5. Without prejudice to any other remedy it may have, if the Company has reasonable grounds to believe that any persons associated with the Associate/Mobilising Party within the meaning of the Bribery Act 2010 has committed any fraud or Malpractice, the Company may, in its absolute discretion, suspend this Agreement.
6. In the event that this Agreement is suspended in accordance with Clause

14.4 above, this Agreement will be resumed if the Associate/Mobilising Party is able to establish to the reasonable satisfaction of the Company that no person associated with the Associate/Mobilising Party within the meaning of the Bribery Act 2010 was responsible for any fraud or Malpractice.

1. TERMINATION OR SUSPENSION
2. Notwithstanding anything to the contrary express or implied elsewhere in this Agreement, the Company (without prejudice to its other rights) may at its sole discretion either terminate this Agreement forthwith or forthwith suspend the provision of services under this Agreement until further notice on notifying the Associate and the relevant Mobilising Party either orally (confirming such notification in writing) or by notice in writing in the event that:
   1. a liquidator (other than for the purpose of amalgamation or reconstruction), trustee in bankruptcy, receiver or receiver and manager is appointed in respect of the assets and/or undertaking of the Mobilising Party, or the Mobilising Party enters into an arrangement or composition with its creditors, or any similar appointment, arrangement or composition is made under any applicable law, or if the Company has reason to anticipate any such appointment, arrangement or composition; or
   2. the Associate/Mobilising Party fails to make any payment due to the Company under this Agreement punctually by the due date or commits any breach of this Agreement and fails to make such payment or remedy such breach within thirty (30) days of being advised by the Company that such payment is due and has not been made or such breach has been committed;
   3. the facilities, equipment or operating staff at the Base cease to be available to the Company for reasons beyond the reasonable control of the Company.
   4. the Associate/Mobilising Party or any party for whom it is responsible (as therein contemplated) under the terms of Clause 14, is in breach of Clause 14.
3. In the event that this Agreement shall have been terminated or the provision of services hereunder suspended by the Company pursuant to Clauses 15.1.1 or 15.1.2, the Associate/Mobilising Party shall reimburse the Company all costs and expenses incurred as a consequence of such termination or suspension.
4. Subject to Clause 12.3, in the event that this Agreement shall have been terminated pursuant to Clause 15.1.3, the Company shall reimburse to the Associate the appropriate pro rata proportion of the Annual Fee in respect of the number of days of the term of this Agreement remaining unexpired at the date of such termination.
5. Upon any termination or expiry of this Agreement the Mobilising Party shall immediately return to the Company all equipment and operating staff provided to the Mobilising Party under this Agreement and all provisions of this Agreement relating to such equipment and staff shall be deemed to remain in force until the Mobilising Party shall have fully performed all its obligations hereunder in respect of such equipment or staff. The provisions of Clauses 10 and 11 shall survive any termination or expiry of this Agreement.
6. ASSIGNMENT AND DELEGATION
7. Neither the Company nor the Associate shall transfer or assign its rights or obligations under this Agreement without the prior written consent of the other.
8. Notwithstanding Clause 16.1, the Company shall be free to arrange for all or any of its obligations hereunder to be performed in whole or in part by any Contractors.
9. No Mobilising Party shall transfer or assign its rights or obligations under this Agreement without the prior written consent of the Company
10. FORCE MAJEURE
11. No failure or omission by a Party to carry out or observe any of the terms or conditions of this Agreement shall, except in relation to obligations to make payments hereunder or failure to return equipment due to customs, fiscal or other governmental regulations or interdictions, give rise to any claim against the Party in question or be deemed a breach of this Agreement if such failure or omission arises from any cause reasonably beyond the control of that Party ("force majeure"). Such obligations (other than obligations to make payments of money as provided in this Agreement) shall be suspended whilst such Party is prevented or hindered from complying therewith.
12. In the event that a force majeure causes a suspension of the obligations of either Party, such Party shall promptly give notice of such suspension to the other Party stating the extent of such suspension and the nature of the force majeure. The Party whose obligations have been suspended as a result of the force majeure shall, where appropriate resume the performance of such obligations promptly after the removal of the force majeure and shall notify the other Party when the force majeure has ended.
13. NOTICES
14. Any communications between the Company and any other Party and any communication by any other Party to the Company shall, unless otherwise provided herein, be sufficiently made if sent by post (by airmail where airmail is possible), postage paid, or by facsimile transmission to the address hereinafter specified.

Unless otherwise specified by not less than fifteen (15) days' notice in writing by the Party in question, the address to which communications shall be sent:-

|  |  |
| --- | --- |
| To the Company: | |
| By mail: | Oil Spill Response Limited  25C Loyang Crescent Singapore 506818 |
| By facsimile: | +65 6266 2312 |

|  |  |
| --- | --- |
| To the Associate: | |
| By mail: | SPREP  PO Box 240, Apia, Samoa |
| By facsimile: | +685 20231 |

|  |  |
| --- | --- |
| To a Mobilising Party: | |
| By mail: | To the address set out for the Mobilising Party in Schedule 4 hereof |
| By facsimile: | To the Fax number set out in relation to the Mobilising Party in Schedule 4 hereof |

1. Any notices given to the Associate shall be deemed served on all Mobilising Parties and the Company shall be entitled to rely on all notices, consents, requests and the like given to or by the Associate as binding on the Associate and each Mobilising Party,.
2. Notwithstanding the above provisions, communications which relate to emergency response only shall be sufficiently made if made by telephone, facsimile or electronic communication and if the telephone communication is confirmed by facsimile or electronic communication provided that they are so made by nominated persons the identity of whom shall be agreed in writing between the relevant Parties and such emergency communications are made to telephone or facsimile numbers and or electronic addresses similarly agreed in writing and such communication by a nominated person on behalf of a Mobilising Party shall constitute a contract between the Mobilising Party and the Company on the terms of this Agreement.
3. WAIVER

No waiver by any Party of any provision of this Agreement shall be binding unless made expressly and expressly confirmed in writing. Further, any such waiver shall relate only to such matter, non-compliance or breach as it expressly relates to and shall not apply to any subsequent or other matter, non-compliance or breach.

1. LAW

The construction, validity and performance of this Agreement shall be governed by English Law, and the parties and Associate hereby submit to the exclusive jurisdiction of the English courts.

1. TAXATION

Any Value Added Tax or any other taxes chargeable on any payments made under this Agreement shall be added to the relevant sums due under this Agreement. If any deduction or withholding in respect of tax or otherwise is required by law to be made from any sums payable by a Mobilising Party or Associate to the Company, the Mobilising Party or Associate, as the context shall admit shall be obliged to pay to the Company such greater sum as will, after such deduction or withholding is made, leave the Company with a payment for the same amount as it would have been entitled to receive in the absence of any requirement to make such reduction or withholding.

1. SEVERABILITY

The invalidity or unenforceability of any provisions of this Agreement shall not affect the validity or enforceability of the remainder.

1. COUNTERPARTS

This document may be executed in any number of counterparts, the counterparts together forming one original document

AS WITNESS the hands of the duly authorised representatives of the parties hereto the day and year first above written

|  |  |  |
| --- | --- | --- |
| **SIGNED** for and on behalf of  **OIL SPILL RESPONSE LIMITED** |  | **SIGNED** for and on behalf of  **Secretariat of the Pacific Regional Environment Programme (SPREP)** |
| **By**: Darren Waterman |  | **By:** Kosi Latu |
| Regional Director |  | Director General  **SIGNED** for and on behalf of |

**SIGNED** for and on behalf of

the Mobilising Parties (see Schedule 4)

# SCHEDULE 1

**Charge out rates**

Charge out rates as per members as detailed in the attachment hereto entitled “Scale of Fees.”

# SCHEDULE 2

**SERVICE LEVEL AGREEMENT**

This Certificate is given by

**SCHEDULE 3.**

**ANTI-BRIBERY CERTIFICATION OF COMPLIANCE**

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| --- |
| **«Company\_Name»** (“the Associate/Mobilising Party”) |
| **Certification Period:** «FullAgmtStart» – «End\_Date» |
| **In respect of**: Associate Membership Agreement with Oil Spill Response Limited (“**OSRL**”) |

*Capitalised terms used in this Certificate, if not defined in this Certificate, have the meaning set forth in the Agreement.*

**Certify that**:

* + 1. The Associate’s/Mobilising Party’s management and each of its employees dealing with OSRL, have complied with the anti- bribery clauses in the Agreement(s) referred to above, and with all Relevant Requirements;
    2. The Associate’s and Mobilising Party’s management and each of its employees dealing with OSRL acknowledge that they have received a copy and are aware of the requirements of OSRL’s Anti-Bribery and Corruption Policy or have taken note of the same at <http://www.oilspillresponse.com/about-us/vision-mission-business-integrity>and have complied, in all material respects with its principles throughout the Certification Period;
    3. In performing the Agreement, the Associate and Mobilising Parties confirm that they have and will continue to strictly adhere to, and oblige subcontractors, its and their directors, officers and employees to strictly adhere to, the principles contained in OSRL’s Anti-Bribery and Corruption Policy in all its dealings with OSRL;
    4. The Associate and Mobilising Parties confirm that they have procedures and controls in place among their employees and representatives to ensure compliance with the Relevant Requirements, including but not limited to procedures to ensure that all transactions are accurately recorded and reported to reflect truly the activities to which they pertain such as the purpose of each transaction and to whom it was made or from whom it was received;
    5. The Associate and Mobilising Parties are not aware, whether in performing this Agreement or in any other dealings with OSRL, of any behaviour by (i) OSRL or its employees which is, or may be, inconsistent with OSRL’s Anti-Bribery and Corruption Policy or the Relevant Requirements, or (ii) the Associate and Mobilising Parties or their employees or representatives which is, or may be, inconsistent with OSRL’s Anti-Bribery and Corruption Policy or the Relevant Requirements. The Associate and Mobilising Parties will promptly inform OSRL upon becoming aware of any such information;
    6. In performing the Agreement, the Associate and Mobilising Parties confirms that they have and will continue to comply with all applicable Relevant Requirements and has not and will not make, offer or authorise any payment, gift, promise or other advantage, whether directly or through any other person or entity, to or for the use or benefit of any public official or any person where such payment, gift, promise or other advantage would (i) comprise a facilitation payment; and/or (ii) violate any of the Relevant Requirements;
    7. The Associate and Mobilising Parties confirm that none of their directors, officials, employees or representatives, that are or may be involved in the performance of the Agreement is a public official, or other person who could assert illegal influence on behalf of OSRL. In the event any such director, official, employee or representative is or becomes a public official, the Associate will promptly inform OSRL upon becoming aware of any such information;
    8. Any instances where the Associate or Mobilising Parties fail to comply with the Relevant Requirements or the OSRL Anti-Bribery and Corruption Policy have been promptly reported to OSRL and copies of any such reports are attached for reference.

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| --- | --- |
| Name: «Signatory\_name» | Position: «Signatory\_position» |
| Signature: | Date: |

**SCHEDULE 4**

| Mobilising Party | Mobilising Party’s Mailing Address for Notices | Mobilising Party’s Facsimile Number for Notices | Signed for and on behalf of each Mobilising Party | | |
| --- | --- | --- | --- | --- | --- |
| +(country code) Number | Signature | Full Name | Position |
| American Samoa |  |  | **Signed for and on behalf of [ ] – duly authorised by [** *INSERT SIGNATORY OF RELEVANT MOBILISING PARTY***]** |  |  |
| Cook Islands |  |  | **Signed for and on behalf of [ ] – duly authorised by [** *INSERT SIGNATORY OF RELEVANT MOBILISING PARTY***]** |  |  |
| Federated States of Micronesia |  |  | **Signed for and on behalf of [ ] – duly authorised by [** *INSERT SIGNATORY OF RELEVANT MOBILISING PARTY***]** |  |  |
| Fiji |  |  | **Signed for and on behalf of [ ] – duly authorised by [** *INSERT SIGNATORY OF RELEVANT MOBILISING PARTY***]** |  |  |
| French Polynesia |  |  | **Signed for and on behalf of [ ] – duly authorised by [** *INSERT SIGNATORY OF RELEVANT MOBILISING PARTY***]** |  |  |
| Guam |  |  | **Signed for and on behalf of [ ] – duly authorised by [** *INSERT SIGNATORY OF RELEVANT MOBILISING PARTY***]** |  |  |
| Kiribati |  |  | **Signed for and on behalf of [ ] – duly authorised by [** *INSERT SIGNATORY OF RELEVANT MOBILISING PARTY***]** |  |  |
| Marshall Islands |  |  | **Signed for and on behalf of [ ] – duly authorised by [** *INSERT SIGNATORY OF RELEVANT MOBILISING PARTY***]** |  |  |
| Nauru |  |  | **Signed for and on behalf of [ ] – duly authorised by [** *INSERT SIGNATORY OF RELEVANT MOBILISING PARTY***]** |  |  |
| New Caledonia |  |  | **Signed for and on behalf of [ ] – duly authorised by [** *INSERT SIGNATORY OF RELEVANT MOBILISING PARTY***]** |  |  |
| Niue |  |  | **Signed for and on behalf of [ ] – duly authorised by [** *INSERT SIGNATORY OF RELEVANT MOBILISING PARTY***]** |  |  |
| Commonwealth of Northern Mariana Islands |  |  | **Signed for and on behalf of [ ] – duly authorised by [** *INSERT SIGNATORY OF RELEVANT MOBILISING PARTY***]** |  |  |
| Palau |  |  | **Signed for and on behalf of [ ] – duly authorised by [** *INSERT SIGNATORY OF RELEVANT MOBILISING PARTY***]** |  |  |
| Papua New Guinea |  |  | **Signed for and on behalf of [ ] – duly authorised by [** *INSERT SIGNATORY OF RELEVANT MOBILISING PARTY***]** |  |  |
| Samoa |  |  | **Signed for and on behalf of [ ] – duly authorised by [** *INSERT SIGNATORY OF RELEVANT MOBILISING PARTY***]** |  |  |
| Solomon Islands |  |  | **Signed for and on behalf of [ ] – duly authorised by [** *INSERT SIGNATORY OF RELEVANT MOBILISING PARTY***]** |  |  |
| Tokelau |  |  | **Signed for and on behalf of [ ] – duly authorised by [** *INSERT SIGNATORY OF RELEVANT MOBILISING PARTY***]** |  |  |
| Tonga |  |  | **Signed for and on behalf of [ ] – duly authorised by [** *INSERT SIGNATORY OF RELEVANT MOBILISING PARTY***]** |  |  |
| Tuvalu |  |  | **Signed for and on behalf of [ ] – duly authorised by [** *INSERT SIGNATORY OF RELEVANT MOBILISING PARTY***]** |  |  |
| Vanuatu |  |  | **Signed for and on behalf of [ ] – duly authorised by [** *INSERT SIGNATORY OF RELEVANT MOBILISING PARTY***]** |  |  |
| Wallis and Futuna |  |  | **Signed for and on behalf of [ ] – duly authorised by [** *INSERT SIGNATORY OF RELEVANT MOBILISING PARTY***]** |  |  |