



REQUEST FOR PROPOSALS

TO: SUITABLY QUALIFIED AND EXPERIENCED SERVICE PROVIDERS

SUBJECT: TO ADVISE FFA ON DEVELOPMENT OF A RISK-BASED ASSESSMENT FRAMEWORK FOR THE WESTERN AND CENTRAL PACIFIC FISHERIES COMMISSION (WCPFC) COMPLIANCE MONITORING SCHEME (CMS)

DATE: 22 January 2021

Submissions are invited from interested parties to submit a proposal in response to the attached request for proposals to advise FFA on development of a Risk-Based Assessment Framework for the Western and Central Pacific Fisheries Commission Compliance Monitoring Scheme.

To enable you to submit a Request for Proposal (RFP) for this work, please find enclosed:

Annex I: Instructions to bidders.

Annex II: Terms of Reference, containing a description of FFA's requirements for which these services are being sought.

Annex III: FFA Standard Conditions of Contract.

This letter is not to be construed in any way as an offer of contract to any specific party.

Yours sincerely

Dr Manumatavai Tupou-Roosen
DIRECTOR-GENERAL

Instruction to Bidders

CP10_2021

REQUEST FOR PROPOSAL - TO ADVISE FFA ON DEVELOPMENT OF A RISK-BASED ASSESSMENT FRAMEWORK (RBAF) FOR THE WESTERN AND CENTRAL PACIFIC FISHERIES COMMISSION (WCPFC) COMPLIANCE MONITORING SCHEME (CMS)

1. Submission of Proposals

1.1. All proposals submitted together with all correspondence and related documents shall be in English.

If any of the supporting documentation or printed literature is in any other language, a written translation of the document in English should also be provided. In such cases the interpreted document will be used for processing and evaluation purposes.

1.2. All prices in the proposals must be presented in US Dollars (USD).

1.3. The deadline for submission of proposals is **Friday 19 February 2021, 16:30 pm Solomon Islands Time**. Any proposal received after this date will not be considered. FFA may, at its discretion, extend the deadline for the submission of proposals by notifying all prospective bidders in writing. The extension of the deadline may accompany a modification of the solicitation documents prepared by FFA on its own initiative or in response to a clarification requested by a prospective bidder.

1.4. In submitting a proposal, interested parties should demonstrate a clear understanding of the Terms of Reference (TOR) as set out, with appropriate explanatory comments, proposed timelines for implementation and delivery of the required work.

1.5. The successful bidder will be required to sign an FFA standard contract for the delivery of services. The FFA Standard Conditions for Contract are not negotiable.

1.6. The proposal should also include:

- (i) A cover letter outlining proposed methodology and timelines for undertaking the assignment as per the Terms of Reference (Annex II).
- (ii) A maximum of 10 pages of information on the CVs of the personnel proposed to undertake the work, their background and relevant experience of the consultants or agency proposed to complete the work as well as a summary of any similar or related experience.
- (iii) A separately enclosed financial proposal providing a detailed cost summary for the implementation of the work.

2. Period of validity of proposals

2.1. Proposals shall remain valid for forty (40) days after the date of Proposal submission prescribed by FFA, pursuant to the deadline clause. A Proposal valid for a shorter period may be rejected by FFA on the grounds that it is non-responsive.

2.2. In exceptional circumstances, FFA may solicit the bidder's consent to an extension of the period of validity. The request and the responses thereto shall be made in writing. A bidder granting the request will not be required nor permitted to modify its Proposal.

3. Outputs required

The consultant will be required to design a risk-based assessment framework for guiding and informing the application of the WCPFC Compliance Monitoring Scheme (CMS) for assessment of compliance in relation to the WCPFC Convention and WCPFC CMMs, for consideration by FFA members, conduct a workshop to demonstrate how this would work and seek feedback from FFA members, and incorporate the feedback from members into the proposed risk based-assessment framework and produce a proposal for approval by FFA members for submission to the WCPFC.

4. Expected Outcome

The expected outcomes are:

- Design of a "risk-based assessment framework for guiding and informing the application of the WCPFC Compliance Monitoring Scheme (CMS) for assessment of compliance in relation to the WCPFC Convention and WCPFC CMMs.
- Conduct a workshop to demonstrate to FFA members how this risk-based assessment framework would work in practice and to seek feedback from FFA members
- Incorporate the feedback from FFA members into the proposed risk-based assessment framework, seek any further feedback, and produce a proposal for approval by FFA members at the annual Officials Forum Fisheries Committee meeting in May 2021.

5. Evaluation Criteria

A two-stage procedure will be used in evaluating the proposals, with evaluation of the technical proposal being completed prior to any price proposal reviewed and compared. The financial proposal will only be reviewed for submissions that have passed the minimum technical score of 70% of the total obtainable score in the evaluation of the technical proposals.

The technical proposal is evaluated on the basis of its responsiveness to the competency requirements as outlined in the following.

The consultant will be required to demonstrate considerable experience in similar work or study and must have had some understanding of the Pacific Islands Region and its society. Working knowledge of the wider Pacific Islands region will be an advantage but is not necessary. He/she will also be required to provide some examples of relevant work he or she has undertaken in the past.

Competency Requirements	Score Weight	Total Obtainable
-------------------------	--------------	------------------

	(%)	Score
Cited examples of relevant similar or related experience.	20	40
The methodology proposed to undertake the required work and the timeline proposed for completion of the work and submission of a final report.	50	100
The qualifications and experience of the personnel proposed to undertake the assignment.	30	60
Total Score	100%	200
Qualification Score	70%	140

In the Second Stage, the financial proposal of all bidders, who have attained a minimum of 70% score in the technical evaluation, will be compared. The contract will be awarded to the bidder(s) offering the best value for money taking in account the accumulative scores of technical and financial evaluations.

Note: Submissions may include proposing an individual person to undertake this work or a team of personnel.

6. Financial Proposals

The financial proposal should be submitted by separate cover and not included as part of the technical proposal. Financial proposals should provide a budget for the project including professional fees, travel and accommodation and any other costs associated with the completion of this work.

7. Requests for further information

Requests for any additional information, queries or questions are to be emailed to the FFA Compliance Policy Advisor, Ms. 'Ana F. Taholo at ana.taholo@ffa.int

8. Award of Contract

A contract shall be issued to the successful tenderer and payment will be made, in accordance with the contract, upon successful completion and submission of the required outputs.

Tenders should be addressed to:

The Director-General

FFA Tender Committee

Procurement reference number CP10_2021–Development of Risk-Based Assessment Framework for the Western & Central Pacific Fisheries Commission (WCPFC) Compliance Monitoring Scheme (CMS)

PO Box 629

Honiara, Solomon Islands

or the Tender document may be emailed in pdf format to procurement@ffa.int with the subject line: **Procurement Reference Number CP10_2021– Development of Risk-Based Assessment Framework for the Western & Central Pacific Fisheries Commission (WCPFC) Compliance Monitoring Scheme (CMS)**

9. FFA's right to vary requirements at time of award.

FFA reserves the right at the time of award of contract to vary the quantity of services and goods specified in the RFP without any change in price or other terms and conditions.

10. Closing date for proposals

Proposals should be emailed to procurement@ffa.int with copies to the above contacts with the subject line heading "To advise FFA on development of a RBAF for the WCPFC CMS". The deadline for receipt of proposals **Friday 19 February 2021, 16:30pm Solomon Islands Time**.

Note: The FFA Standard Conditions of Contract are not negotiable.

Annex II

Terms of Reference

CP10_2021

REQUEST FOR PROPOSAL- TO ADVISE FFA ON DEVELOPMENT OF A RISK-BASED ASSESSMENT FRAMEWORK FOR THE WESTERN AND CENTRAL PACIFIC FISHERIES COMMISSION (WCPFC) COMPLIANCE MONITORING SCHEME (CMS)

A. Title

TO ADVISE FFA ON DEVELOPMENT OF A RISK-BASED ASSESSMENT FRAMEWORK FOR THE WESTERN AND CENTRAL PACIFIC FISHERIES COMMISSION (WCPFC) COMPLIANCE MONITORING SCHEME (CMS)

B. Background

The FFA Fisheries Operations Division

The Fisheries Operations Division at FFA provides Monitoring Control and Surveillance (MCS) advice and other services, for members to strengthen national capacity and to underpin regional solidarity to prevent, deter and eliminate Illegal Unreported and Unregulated (IUU) fishing in the Pacific. This work is guided by the Regional Monitoring Control and Surveillance Strategy 2018–2023 (RMCSS), formally endorsed by the Forum Fisheries Committee (FFC) in 2018. The main purpose of this strategy is to guide compliance and enforcement with fisheries management frameworks and associated measures at national, sub-regional, regional levels to ensure FFA members enjoy the highest level of social and economic benefit from the sustainable use of shared offshore fisheries resources.

Through the RMCSS, FFA member countries have collectively identified MCS outcomes that will require regional collaboration and cooperation as well as national action.

The MCS services provided by the Fisheries Operations Division include:

1. technical policy advice and support to Members including in the Technical and Compliance Committee of the WCPFC,
2. information sharing and associated projects in relation to monitoring activities,
3. regional surveillance operations,
4. the FFA Observer Program,
5. FFA Vessel Register,
6. FFA Vessel Monitoring System services,
7. FFA member/subregional licence information list, and
8. staff training and support regarding relevant regional decision-making bodies.

The WCPFC Compliance Monitoring Scheme

The WCPFC Compliance Monitoring Scheme (CMS) has been in place since 2011 and Conservation and Management Measure is in [CMM 2019-06](#) state its current purpose is:

to ensure that Members, Cooperating Non-Members and Participating Territories (CCMs) implement and comply with obligations arising under the Convention and conservation and management measures (CMMs) adopted by the Commission. The purpose of the CMS is also to assess flag CCM action in relation to alleged violations by its vessels, not to assess compliance by individual vessels (CMM 2019-06 paragraph 1).

WCPFC committed to a multi-year workplan of tasks to enhance the CMS with the aim of making it more efficient and effective by streamlining processes. These include (CMM 2019-06 paragraph 46):

- i. *the development of audit points to clarify the Commission obligations assessed under the CMS, as well as the development of a checklist to be used by the proponents of any proposal to include a list of potential audit points for the consideration of the Commission*
- ii. *explore investment in technology solutions to facilitate improvements to the compliance case file system*
- iii. *the development of a risk-based assessment framework to inform compliance assessments and ensure obligations are meeting the objectives of the Commission*
- iv. *the development of corrective actions to encourage and incentivise CCMs' compliance with the Commission's obligations, where non-compliance is identified*
- v. *the development of the guidelines for participation of observers in closed meetings of the Commission and its subsidiary bodies which consider the Compliance Monitoring Report*

This work is intended to address what is envisaged by CMM 2019-06 paragraph 46 (iii), underlined above.

Information related to the WCPFC CMS can be found at [Compliance Monitoring Scheme | WCPFC](#) as well as past WCPFC Technical and Compliance Committee meeting at [Technical and Compliance Committee | WCPFC](#)

C. Terms of Reference

Purpose

- To provide advice to FFA, and support FFA decision-making, on the development of a risk-based system for prioritising the assessment of compliance with the WCPFC's Conservation Management Measures (CMMs).

Outcomes

- Design a "risk-based assessment framework for prioritising the assessment of compliance with the WCPFC's CMMs" for consideration by FFA members. **[February – April]**
- Conduct a workshop to demonstrate to FFA members how this risk-based assessment framework would work in practice and to seek feedback from FFA members. **[mid-April]**
- Incorporate the feedback from FFA members into the proposed risk-based assessment framework, seek any further feedback, and produce a proposal for approval by FFA members at the annual Officials Forum Fisheries Committee meeting in May. **[early May]**

Background

A risk-based assessment framework for the Compliance Monitoring Scheme (CMS) will:

- provide a **transparent and balanced process** to prioritise WCPFC's Conservation and Management Measures (CMMs) for compliance assessment each year;
- ensure that the CMS **prioritises assessment** of those CMMs for which non-compliance would undermine the objective of the CMM and be inconsistent with the principles and measures for conservation and management (article 5), and the broader context of the [WCPFC Convention](#);
- ensure appropriate attention and resources is allocated to **addressing the most persistent, systematic or high impact issues of non-compliance**;
- deliver a process for ensuring **regular assessment of a broad range of CMMs** to ensure that the risk of non-compliance in certain areas is minimised and all CMMs are effective.

Under **paragraph 46** of the Western and Central Pacific Commission's (WCPFC) Conservation Management Measure 2019-06 on the Compliance Monitoring Scheme (CMS), the WCPFC committed to a multi-year workplan to enhance the CMS, with the aim of making it more efficient and effective by streamlining processes. This includes the development, during 2020-21, of "a risk-based assessment framework to inform compliance assessments and ensure obligations are meeting the objectives of the Commission".

Paragraph 6 of CMM 2019-06 indicates that each year, the WCPFC will update what obligations shall be assessed using a risk-based approach. Until this risk-based approach is developed, in considering the obligations to be assessed in the following year, the WCPFC shall take into account:

- (i) the needs and priorities of the Commission, including those of its subsidiary bodies;
- (ii) evidence of high percentages of non-compliance or persistent non-compliance by CCMs with specific obligations for multiple years;
- (iii) additional areas identified through the risk-based approach to be developed; and
- (iv) the potential risks posed by non-compliance by CCMs with CMMs (or collective obligations arising from CMMs) to achieve the objectives of the Convention or specific measures adopted thereunder.

See also **paragraph 7** of CMM 2019-06 which provides criteria for the annual assessment of compliance by CCMs with priority obligations, and **Annex 1** of CMM 2019-06 which sets out criteria for the five levels of compliance status.

Intersection with other work to enhance the Compliance Monitoring Scheme

The development of a risk-based assessment framework for the CMS intersects with other components of the workplan to enhance the CMS (paragraph 46, CMM 2019 -06). This includes the work to develop **audit points for each obligation** so that CCMs clearly understand what is required under each CMM and the work to **streamline CCM reporting requirements** to reduce duplication and ensure that CCMs understand and can readily comply with reporting obligations. It will be important that these streams of work are complementary.

Relevant resources include, but are not limited to:

- Complete list of obligations to be assessed as set out in all current WCPFC Conservation and Management Measures
- Conservation Management Measure 2019-06 for Compliance Monitoring Scheme
- WCPFC Compliance Monitoring Reports
- Previous Lists of Obligations to be reviewed in Compliance Monitoring Reports
- WCPFC Agreed List of Obligations to be Assessed in 2016-18 and Frequency of Assessment for Forward Years (Attachment O to WCPFC12 Summary Report in 2015)
- WCPFC Convention
- FFA analysis in Annex 1 of MOC16-WP02
- Report of the Independent Review of CMS (2018). [This report, notes, for example, that the complexity of the CMS is in part related to the number and nature of obligations assessed each year. It also noted the need to ensure equivalence of treatment under the CMS between vessels fishing on the high seas and those fishing in EEZs, noting that scrutiny partly reflects availability of data.]
- SC Project 93: Review of the Commission's Data Needs and Collection Programmes

Tasks

Understand the context, best practice and methodology

- 1 Assess the key components of relevant **examples of risk-based assessment frameworks for fisheries compliance used by States or other regional fisheries management organisations**, in order to inform the design, according to best practice and methodology, of a possible compliance risk-based assessment framework for the WCPFC. The aim is to illustrate appropriate methodology which might inform a targeted and manageable approach to the WCPFC CMS.
- 2 Establish an understanding of:
 - the objectives and priorities of the WCPFC;
 - the WCPFC Compliance Monitoring Scheme with respect to the past schedule for prioritising the assessment of obligations within CMMs;
 - patterns and trends of compliance;
 - implications for overall compliance assessment from the availability of, and gaps in, verified information and data on fishing activities; and
 - implications of recent improvements and streamlining of CCM reporting requirements.

Likelihood of non-compliance: Understand and quantify the patterns and trends of non-compliance.

- 3 Draw on the FFA analysis in Annex 1 of MOC16-WP02, and further analysis of Compliance Monitoring Reports over a representative period, to understand patterns and trends of non-compliance. You will need to factor in that obligations change over time, new obligations are introduced, and obligations are assessed at different intervals.

- 4 In doing this, you should consider the following, amongst other things:
- *which obligations* are not complied with by a significant number of CCMs?
 - *how often* is non-compliance by a significant number of CCMs with each obligation occurring?
 - are there *gaps in our understanding of compliance* with particular obligations within CMMs (i.e. because particular obligations are not assessed regularly or there is less independently verified data available)?
 - have CCMs been deterred from non-compliance or adjusted their behaviour, as a result of effective monitoring or other interventions, leading to a *change in the level of non-compliance* with a particular obligation within a CMM?
- 5 Determine a means to **define and rank “likelihood” of non-compliance** with each of the obligations set out in WCPFC CMMs. Using the research from paragraphs 3 & 4, analyse each **obligation set out in the relevant WCPFC CMM** in terms of **likelihood of non-compliance** and assign a likelihood rating (e.g. on a scale from rare through to almost certain).

Consequence of non-compliance: Understand and quantify the impact of non-compliance.

- 6 This should include, but is not limited to, the following:
- analysis of the *material impact* of non-compliance with a particular obligation on the achievement of the relevant CMM (including, for example, taking into account magnitude of non-compliance); [CMM]
 - analysis of the implications of non-compliance with a particular obligation for the achievement of the principles and measures for conservation and management, priorities of WCPFC subsidiary bodies and the broader context of the WCPFC Convention - this may involve a process of categorising or grouping obligations; [broader WCPFC context]
 - analysis of the impact of any other factors which might mitigate the consequences of non-compliance with these particular obligations set out in CMMs.
- 7 Determine a means to **define and rank “consequence” of non-compliance** with the WCPFC obligations set out in CMMs. Using the research from paragraph 6, analyse each **obligation set out in the relevant WCPFC CMM** in terms of **consequence of non-compliance** and assign a consequence rating (e.g. on a scale from minor through to severe).

Prioritising compliance risks

- 8 **Prioritise compliance risks:** As a result of assessing likelihood and consequence of non-compliance with obligations set out in the WCPFC’s CMMs, develop a matrix for FFA to consider which will identify and prioritise the most important compliance issues for annual assessment in the CMS process in a given year, whilst also ensuring that there is a regular

schedule for the assessment of all other obligations (e.g. a rotational schedule). This may involve a process of categorising or grouping obligations.

- 9 **Monitoring of priority compliance risks:** The framework should incorporate a process for regular review using the risk assessment methodology to ensure that the WCPFC continues to prioritise the assessment of compliance with obligations, including for new CMMs, where there is greatest risk to the objectives of the WCPFC Convention and CMMs. This will ensure that the WCPFC is continually assessing whether it is addressing the most important compliance issues, adding new areas for compliance as they emerge and de-prioritising areas for compliance as appropriate.

Engagement with FFA Members

- 10 Conduct a workshop in mid-April in order to present a proposed risk-based assessment framework to prioritise and schedule the assessment of WCPFC obligations and CMMs to FFA members for consideration. Demonstrate how this risk-based assessment framework would work in practice and seek feedback from FFA members. Work with FFA members at this workshop to ensure that FFA priorities and perspectives are reflected in the risk-based assessment framework.
- 11 Following the FFA workshop, incorporate feedback into the proposed risk-based assessment framework. See further feedback from FFA members by email and adjust as necessary.

Finalisation of risk-based assessment framework

- 12 Produce a proposed risk based assessment framework for approval by FFA members at the annual Officials' Forum Fisheries Committee meeting in early May.
- 13 This risk based assessment framework will be a component of an FFA proposal, alongside an FFA proposal on audit points for the CMS, for broader consideration in the WCPFC context. Initial engagement will take place bilaterally with other non-FFA CCMs. The FFA proposal will then be submitted to the WCPFC Technical and Compliance Committee in September 2021, ahead of the WCPFC itself in December 2021.

ANNEX III

FFA STANDARD CONDITIONS OF CONTRACT

CP10_2021

REQUEST FOR PROPOSAL- TO ADVISE FFA ON DEVELOPMENT OF A RISK-BASED ASSESSMENT FRAMEWORK FOR THE WESTERN AND CENTRAL PACIFIC FISHERIES COMMISSION (WCPFC) COMPLIANCE MONITORING SCHEME (CMS)

1. Definitions

1.1 In this Contract:

- (a) "Consultancy Services" means the Consultancy Services described in Schedule A;
- (b) "Memorandum of Agreement" means the agreement executed by and between FFA and the Institution in which these Conditions have been incorporated by reference;
- (c) "FFA" means the Pacific Islands Forum Fisheries Agency, based in Honiara, Solomon Islands;
- (d) "Contract" means the Memorandum of Agreement together with these Conditions and all other schedules and documents, if any, annexed to the Memorandum of Agreement or incorporated therein and intended to form part of the contractual relationship between the parties;
- (e) "Confidential Information" means information that:
 - (i) is by its nature confidential;
 - (ii) is designated by FFA as confidential;
 - (iii) the Institution knows or ought to know is confidential;but does not include information which:
 - is or becomes public knowledge other than by breach of this Contract;
 - is in the possession of the Institution without restriction in relation to disclosure before the date of receipt from FFA;
 - has been independently developed or acquired by the Institution
- (f) "Usual Place of Residence" means the place of residence of the Institutions during the duration of the consultancy, as designated in the Memorandum of Agreement;
- (g) "Term of Engagement" means the entire period during which the Institutions will be expected to perform the Consultancy Services.

1.2 Words importing a gender include any other gender.

- 1.3 Words in the singular number include the plural and words in the plural number include the singular.
- 1.4 Clause headings in this Contract are for convenient reference only and have no effect in limiting or extending the language of the provisions to which they refer.
- 1.5 A reference to a Schedule is a reference to a Schedule to this Contract and includes such Schedule as amended or replaced from time to time by agreement in writing between the parties.

2. Fees

- 2.1 FFA shall pay fees to the Institutions in respect of the Consultancy Services at the rate and in the currency specified in Schedule B to the Memorandum of Agreement on the basis of time spent by the Institutions in performing the Consultancy Services. For the purpose of determining the amount of such fees:
 - (a) Where the fees are expressed in terms of a daily rate the time spent in performing the Consultancy Services shall be determined solely on the basis of the number of days actually worked by the Institution in performing the Consultancy Services, including travel time.
- 2.2 Except as otherwise agreed between FFA and the Institution, no fees will be paid in respect of work performed other than during the Term of Engagement.

3. Expenses

- 3.1 In addition to the fees specified in clause 2 and subject to Schedule A and Schedule B, FFA shall pay to or reimburse the Institution for the following:
 - (a) A daily subsistence allowance (DSA) at standard FFA rates for every day during the term of engagement during which the Institution shall be absent from the Usual Place of Residence for the purpose of performing the Consultancy Services; provided that DSA will be paid for the day of departure from the Usual Place of Residence but not for the day of return thereto. The DSA covers all accommodation charges, including government taxes (where applicable), meals, laundry and incidental expenses.
 - (b) All transportation costs properly and reasonably incurred by the Institution in travelling for the purposes of the Consultancy Services whether within the Country of Assignment or elsewhere, including the cost of transportation by an appropriate means of public transport between the Usual Place of Residence and the nearest convenient international airport and the cost of economy class air travel.
 - (c) All other reasonable out-of-pocket expenses of the Institution arising directly out of the performance of the Consultancy Services, including communications charges, airport and departure taxes, visa fees, taxi fares, and photocopying charges.

4. Payment of Fees, Costs and Expenses

- 4.1 Consultancy fees payable under the Contract will be paid in accordance with Schedule B and to the satisfaction of the FFA.
- 4.2 Where the Consultancy Services have not been performed to the satisfaction of FFA, FFA may withhold the balance of the fees in whole or in part and may:

- (a) require the Institution to carry out whatever additional work is required to complete the Consultancy Services to the satisfaction of FFA; or
 - (b) terminate the Contract forthwith without prejudice to any right of action or remedy which has accrued or which may accrue in favour of FFA.
- 4.3 Printing and distribution costs and reimbursable costs and expenses referred to in clause 3 shall be paid by FFA upon written application made by the Institution to FFA, supported by such receipts or other evidence as FFA may reasonably require to establish that that the expenditure was incurred in the amount and currency and in the manner claimed.
- 4.5 Unless otherwise agreed between the Institution and FFA, the fees shall be paid in the currency specified in Schedule B. All out-of-pocket expenses shall be paid either in the currency in which the same were incurred or in Solomon Island dollars or partly in one currency and partly in the other, as FFA shall reasonably determine in consultation with the Institution.
- 4.6 Whenever it shall be necessary to determine the equivalent of an amount in one currency in terms of another, the conversion shall be made at the rate which FFA shall determine was applicable at the time and place when the Institution incurred the expenditure or converted currency into the currency of expenditure, whichever first occurred.
- 5. **Medical and Insurance**

All medical and insurance costs shall be borne by the Institutions and FFA shall be under no liability in respect of medical expenses of the Institutions.
- 6. **Indemnity**
 - 6.1 Subject to the provisions of this Contract, the Institutions shall at all times indemnify and hold harmless FFA, its officers, employees and agents (in this clause referred to as "those indemnified") from and against any loss (including legal costs and expenses on a solicitor/own client basis), or liability, reasonably incurred or suffered by any of those indemnified arising from any claim, suit, demand, action or proceeding by any person against any of those indemnified where such loss or liability was caused by any wilful, unlawful or negligent act or omission of the Institution in connection with this Contract.
 - 6.2 The Institutions' liability to indemnify FFA under clause 6.1 shall be reduced proportionately to the extent that any act or omission of FFA or its officers, employees or agents contributed to the loss or liability.
 - 6.3 The indemnity referred to in clause 6.1 shall survive the expiration or termination of this Contract.
- 7. **General Covenants**
 - 7.1 The Institutions covenant and agree that:
 - (a) During the Term of Engagement, they shall devote the whole of their time and attention to the performance of the Consultancy Services and shall at all times act with due diligence and efficiency and in accordance with the Terms of

Reference. They shall make or assist in making all such reports and recommendations as may be contemplated by the Terms of Reference and shall at all times cooperate with FFA, its employees and agents. After the termination of the engagement they shall continue to cooperate with FFA to such reasonable extent as may be necessary to clarify or explain any reports or recommendations made by them.

- (b) At all times they shall act with appropriate propriety and in particular, refrain from making any public statement concerning the Consultancy Services without the prior approval of FFA.
- (c) They shall have no authority to commit FFA in any way whatsoever and shall make this clear as circumstances warrant.
- (d) They shall report immediately to FFA any circumstances or events which might reasonably be expected to hinder or prejudice the performance of the Consultancy Services, including circumstances and events relating to his transportation and accommodation.
- (e) All reports, notes, drawings, specifications, statistics, plans and other documents and data compiled or made by the Institution while performing the Consultancy Services shall be the property of FFA and upon termination of the engagement shall be disposed of as FFA may direct. The Institution may retain copies of such documents and data but shall not use the same for purposes unrelated to the Consultancy Services without the prior approval of FFA.

8. Conflict of Interest

- 8.1 The Institutions warrants that, to the best of their knowledge, at the date of signing this Contract, no conflict of interest exists or is likely to arise in the performance of his obligations under this Contract.
- 8.2 If during the Term of Engagement, a conflict of interest arises, or appears likely to arise, the Institutions undertake to notify FFA immediately in writing and to take such steps as FFA may reasonably require to resolve or otherwise deal with the conflict. If the Institutions fail to notify FFA or are unable or unwilling to resolve or deal with the conflict as required, FFA may terminate this Contract in accordance with the provisions of clause 10.
- 8.3 The Institutions shall not engage in any activity or obtain any interest during the Term of Engagement that is likely to conflict with or restrict the Institution in providing the Consultancy Services to FFA fairly and independently.

9. Disclosure of Information

- 9.1 The Institutions shall not, without the prior written approval of FFA, disclose to any person other than FFA, any Confidential Information. In giving written approval, FFA may impose such terms and conditions as it thinks fit.
- 9.2 FFA may at any time require the Institutions to give a written undertaking, in a form required by FFA, relating to the non-disclosure of Confidential Information. The Institutions shall promptly arrange for all such undertakings to be given.

9.3 The obligation on the Institutions under this clause shall not be taken to have been breached where the information referred to is legally required to be disclosed.

10. Termination

10.1 FFA may, at any time by written notice, terminate this Contract in whole or in part. If this Contract is so terminated, FFA shall be liable only for:

- (a) payment under the payment provisions of this Contract for Consultancy Services rendered before the effective date of termination; and
- (b) subject to clauses 10.3 and 10.4, any reasonable costs incurred by the Institutions and directly attributable to the termination or partial termination of this Contract.

10.2 Upon receipt of a notice of termination the Institutions shall:

- (a) stop work as specified in the notice;
- (b) take all available steps to minimize loss resulting from that termination;
- (c) continue work on any part of the Consultancy Services not affected by the notice.

10.3 In the event of partial termination FFA's liability to pay fees under Schedule B shall, in the absence of agreement to the contrary, abate proportionately to the reduction in the Consultancy Services.

10.4 FFA shall not be liable to pay compensation in an amount which would, in addition to any amounts paid or due, or becoming due, to the Institutions under this Contract, together exceed the total fees set out in Schedule B.

11. Default

11.1 If either party is in default under this Contract on account of the failure to perform or observe any obligation or undertaking to be performed or observed on its part under this Contract, the party not in default may terminate this Contract in whole or in part without prejudice to any right of action or remedy which has accrued or which may accrue in favour of either party.

12. Waiver

12.1 A waiver by either party in respect of any breach of a condition or provision of this Contract shall not be deemed to be a waiver in respect of any continuing or subsequent breach of that provision, or breach of any other provision. The failure of either party to enforce at any time any of the provisions of this Contract shall in no way be interpreted as a waiver of such provision.

13. Notices

13.1 Any notice, request or other communication to be given or served pursuant to this Contract shall be in writing and dealt with as follows:

- (a) if given by the Institutions to FFA, addressed and forwarded to the Director-General, Forum Fisheries Agency, P.O. Box 629, Honiara, Solomon Islands. Fax: (+677) 23995.

- (b) if given by FFA to the Institutions, signed by the Director-General or Deputy Director-General and forwarded to the Institution at the Usual Place of Residence.
- 13.2 Any such notice, request or other communication shall be delivered by hand or sent by pre-paid registered post, facsimile to the address of the party to which it is sent.
- 13.3 Any notice, request or other communication will be deemed to be received:
 - (a) if delivered personally, on the date of delivery;
 - (b) if sent by pre-paid registered post, on the day that the acknowledgment of delivery is completed by the recipient; and
 - (c) if sent by facsimile, on the business day next following the day of despatch providing that the sender receives an "OK" code in respect of the transmission and is not notified by the recipient by close of business of the next business day following the day of despatch that the transmission was illegible.

14. [Entire Agreement and Variation](#)

- 14.1 This Contract contains the entire agreement between the parties and supersedes all communications, negotiations, arrangements and agreements, whether oral or written, between the parties with respect to the subject matter of this Contract.
- 14.2 No agreement or understanding varying or extending this Contract, including in particular the scope of the Consultancy Services in Schedule A shall be legally binding upon either party unless in writing and signed by both parties.

15. [Severability](#)

- 15.1 Each provision of this Contract and each part thereof shall, unless the context otherwise necessarily requires it, be read and construed as a separate and severable provision or part. If any provision or part thereof is void or otherwise unenforceable for any reason, then that provision or part (as the case may be) shall be severed and the remainder shall be read and construed as if the severable provision or part had never existed.

16. [Applicable Law](#)

- 16.1 This Contract shall be governed by and construed in accordance with the laws of the Solomon Islands and the parties agree, subject to the Contract, that the courts of the Solomon Islands shall have jurisdiction to entertain any action in respect of, or arising out of, this Contract.