

## **SERVICES CONTRACT**

SERVICES CONTRACT IN RELATION TO FISHERIES SERVICES IN THE  
COCOS (KEELING) ISLANDS

Commonwealth of Australia as represented by the Department of  
Infrastructure, Transport, Regional Development, Communications and the  
Arts  
ABN 86 267 354 017

COCOS (KEELING) ISLANDS SHIRE COUNCIL  
ABN 12 325 522 841

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## SERVICES CONTRACT

### SERVICES CONTRACT IN RELATION TO FISHERIES SERVICES IN THE COCOS (KEELING) ISLANDS FISHERIES SERVICES IN THE COCOS (KEELING) ISLANDS

#### Date

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This contract is made on

#### Parties

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This contract is made between and binds the following parties:

1. **Commonwealth of Australia** as represented by the Department of Infrastructure, Transport, Regional Development, Communications and the Arts ABN 86 267 354 017, 150 St Georges Terrace, Perth, WA, (the **Commonwealth**)
2. **Cocos (Keeling) Islands Shire Council** ABN 12 325 522 841 of Lot 256 Jalan Melati, Home Island, Cocos (Keeling) Islands (the **Service Provider**)

#### Context

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This contract is made in the following context:

- A. The Commonwealth requires the provision of certain services.
- B. The Service Provider has fully informed itself about the requirement and has submitted the proposal referred to in Item 1 of the Schedule.
- C. The parties have agreed that the Service Provider will perform the Services for the Commonwealth on the terms and conditions set out in this contract.

#### Operative Provisions

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In consideration of the mutual promises contained in this contract, the parties to this contract agrees as follows:

#### 1. Interpretation

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##### 1.1. Definitions

1.1.1. In this contract, unless the context indicates otherwise:

**Attachment** means a document attached to the contract or incorporated by reference in the Schedule, and includes the Attachment as amended or replaced from time to time by agreement in writing between the parties.

**Australian Privacy Principle** has the same meaning as it has in the Privacy Act.

<b>Business Day (in a place)</b>	means a weekday other than a public holiday in the place specified or, if no place is specified, in the State or Territory specified in Item 23.
<b>Commencement Date</b>	means the date on which this contract is made, unless otherwise specified in Item 5.
<b>Commonwealth Material</b>	means any Material: <ul style="list-style-type: none"> <li>a. provided by the Commonwealth to the Service Provider for the purposes of this contract; or</li> <li>b. derived at any time from the Material referred to in paragraph a.</li> </ul>
<b>Confidential Information (of the Service Provider)</b>	means information that is by its nature confidential and is described in Item 18.
<b>Contract Material</b>	means any Material: <ul style="list-style-type: none"> <li>a. created for the purposes of this contract;</li> <li>b. provided or required to be provided to the Commonwealth as part of the Services; or</li> <li>c. derived at any time from the Material referred to in paragraphs a or b.</li> </ul>
<b>Department</b>	includes any department, agency or authority of the Commonwealth which is from time to time responsible for administering this contract.
<b>Expiry Date</b>	means the date on which this contract expires, as specified in Item 5.
<b>GST</b>	has the meaning given in the <i>A New Tax System (Goods and Services Tax) Act 1999 (Cth)</i> .
<b>Information Officer</b>	means any of the information officers appointed under the <i>Australian Information Commissioner Act 2010 (Cth)</i> when performing privacy functions as defined in that Act.
<b>Instalment</b>	means the fee payable under clause 3.1.1.a and Item 10 in relation to a specified part or the whole of the Services.
<b>Intellectual Property</b>	includes: <ul style="list-style-type: none"> <li>a. all copyright (including rights in relation to phonograms and broadcasts);</li> <li>b. all rights in relation to inventions, plant varieties, trademarks (including service marks), designs and circuit layouts; and</li> </ul>

- c. all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields,

but does not include:

- d. Moral Rights;
- e. the non-proprietary rights of performers; or
- f. rights in relation to Confidential Information.

**Material** means anything in relation to which Intellectual Property rights arise.

**Milestones** means the milestones set out in Item 2.

**Moral Rights** means the following non-proprietary rights of authors of copyright Material:

- a. the right of attribution of authorship;
- b. the right of integrity of authorship; and
- c. the right not to have authorship falsely attributed.

**Official Information** means any information developed, received or collected by or on behalf of the Commonwealth to which the Service Provider gains access under or in connection with this contract, and includes the Contract Material and the terms of the contract.

**Official Resources** includes:

- a. Official Information;
- b. people who work for or with the Commonwealth; and
- c. assets belonging to (even if in the possession of contracted providers) or in the possession of the Commonwealth.

**Open Access Licence** means a licence to the public on broad open access terms that allows any member of the public to perform a wide range of acts in respect of the material subject to certain restrictions. An Open Access Licence includes any Department or Australian Government open access licence and any Creative Commons Attribution licence (see <http://creativecommons.org.au/learn-more/licences>).

**Personnel** means:

- a. in relation to the Service Provider - any natural person who is an officer, employee, agent or professional advisor of the Service Provider or of its subcontractors; and

- b. in relation to the Commonwealth - any natural person, other than a person referred to in paragraph a, who is an officer, employee, agent or professional advisor of the Commonwealth.

<b>Privacy Act</b>	means the <i>Privacy Act 1988</i> (Cth).
<b>Project Officer</b>	means the person specified (by name or position) in Item 7 or any substitute notified to the Service Provider.
<b>Schedule</b>	means the schedule to this contract entitled 'Contract Details', and includes the Schedule as amended or replaced from time to time by agreement in writing between the parties.
<b>Services</b>	means the services described in Item 2 and includes the provision to the Commonwealth of the Material specified in Item 3.
<b>Specified Personnel</b>	means the Personnel specified in Item 9 as required to perform all or part of the work constituting the Services.

## 1.2. Interpretation

1.2.1. In this contract, unless the contrary intention appears:

- a. words importing a gender include any other gender;
- b. words in the singular include the plural and words in the plural include the singular;
- c. clause headings are for convenient reference only and have no effect in limiting or extending the language of provisions to which they refer;
- d. words importing a person include a partnership and a body whether corporate or otherwise;
- e. a reference to dollars is a reference to Australian dollars;
- f. a reference to any legislation or legislative provision includes any statutory modification, substitution or re-enactment of that legislation or legislative provision;
- g. if any word or phrase is given a defined meaning, any other part of speech or other grammatical form of that word or phrase has a corresponding meaning;
- h. a reference to an Item is a reference to an Item in the Schedule;
- i. the Schedule and any Attachments form part of this contract;



- j. if any conflict arises between the terms and conditions contained in the clauses of this contract and any part of the Schedule (and Attachments if any), the terms and conditions of the clauses prevail;
- k. if any conflict arises between any part of the Schedule and any part of an Attachment, the Schedule prevails;
- l. a reference to writing is a reference to any representation of words, figures or symbols, whether or not in a visible form;
- m. wherever the context permits a reference to a party includes its successors or assignees;
- n. a covenant on the part of two or more persons binds them jointly and severally and a covenant for the benefit of two or more persons is for the benefit of them jointly and severally;
- o. where the day on or by which any act, matter or thing is to be done under or pursuant to this contract is not a Business Day, the act, matter or thing must be done on the next Business Day; and
- p. references to clauses are references to clauses of this contract.

### 1.3. **Guidance on construction of contract**

- 1.3.1. This contract records the entire agreement between the parties in relation to its subject matter.
- 1.3.2. As far as possible all provisions of this contract will be construed so as not to be void or otherwise unenforceable.
- 1.3.3. If anything in this contract is void or otherwise unenforceable then it will be severed and the rest of the contract remains in force.
- 1.3.4. A provision of this contract will not be construed to the disadvantage of a party solely on the basis that it proposed that provision or that it put forward this contract.

### 1.4. **Commencement and term**

- 1.4.1. The terms of this contract apply on and from the Commencement Date until the Expiry Date unless terminated earlier in accordance with this contract.

## **2. Provision of Services**

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### 2.1. **Principal obligations of Service Provider**

- 2.1.1. The Service Provider must:
  - a. perform the Services as specified in Item 2;
  - b. provide to the Commonwealth the Material specified in Item 3;
  - c. adopt relevant best practice and comply with all applicable Australian standards, including those specified in Item 4, industry standards and

guidelines and any Department or Commonwealth policies, standards or guidelines specified in Item 4;

- d. comply with the time frame for the performance of the Services specified in Item 5; and
- e. submit invoices, and any required supporting documents, in the manner specified in Item 6.

2.1.2. The Service Provider must:

- a. keep adequate books and records, in accordance with Australian accounting standards, in sufficient detail to enable the amounts payable by the Commonwealth under this contract to be determined; and
- b. keep copies of all certifications and other records to confirm their compliance with all applicable Australian standards.

2.2. **Liaison with Project Officer**

2.2.1. The Service Provider must:

- a. liaise with the Project Officer as reasonably required; and
- b. comply with directions of the Project Officer that are consistent with this contract.

2.3. **Subcontracting**

2.3.1. The Service Provider must not subcontract the performance of any part of the Services without the Commonwealth's prior written approval in respect of the proposed subcontractor and the scope of the Services proposed to be subcontracted. The subcontractors set out in Item 8 are approved by the Commonwealth.

2.3.2. The Commonwealth may impose any conditions it considers appropriate when giving its approval under clause 2.3.1. Without limiting this clause 2.3.2 the Commonwealth may grant its approval to a proposed subcontract subject to the requirement that the proposed subcontractor enter into a confidentiality agreement with the Commonwealth on terms and conditions required by the Commonwealth and such other the conditions (if any), specified in Item 8.

2.3.3. If the Commonwealth imposes conditions when giving approval under clause 2.3.1 the Service Provider must comply with such conditions before entering into the relevant subcontract.

2.3.4. The Service Provider must make available to the Commonwealth (if requested), details of all subcontractors engaged in the performance of the Services.

2.3.5. The Service Provider acknowledges, and must inform all subcontractors that, the Commonwealth may publicly disclose the names of any subcontractors engaged in the performance of the Services.

## 2.4. **Specified Personnel**

- 2.4.1. The Service Provider must ensure that the Specified Personnel perform work in relation to the Services in accordance with this contract.
- 2.4.2. If Specified Personnel are unable to perform the work as required under clause 2.4.1, the Service Provider must notify the Commonwealth immediately.
- 2.4.3. The Service Provider must, at the request of the Commonwealth acting in its absolute discretion, remove Personnel (including Specified Personnel) from work in relation to the Services.
- 2.4.4. If clause 2.4.2 or clause 2.4.3 applies, the Service Provider must provide replacement Personnel acceptable to the Commonwealth at no additional cost and at the earliest opportunity.

## 2.5. **Responsibility of Service Provider**

- 2.5.1. The Service Provider is fully responsible for the performance of the Services and for ensuring compliance with the requirements of this contract, and will not be relieved of that responsibility because of any:
- a. involvement by the Commonwealth in the performance of the Services;
  - b. subcontracting of the Services;
  - c. acceptance by the Commonwealth of Specified Personnel; or
  - d. payment made to the Service Provider on account of the Services.

## 2.6. **Illegal Workers**

- 2.6.1. In this clause 2.6:

**Illegal Worker** means a person who has unlawfully entered Australia, remains in Australia after their visa has expired, or is working in breach of their visa conditions.

- 2.6.2. The Service Provider must ensure that its Service Provider Personnel do not include any Illegal Workers and must notify the Commonwealth immediately if it becomes aware of any of its Service Provider Personnel being an Illegal Worker.

## 3. **Fees, allowances and assistance**

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### 3.1. **Principal obligations of the Commonwealth**

- 3.1.1. The Commonwealth agrees to:
- a. pay the fees in the Instalments (and for the avoidance of doubt, upon achieving the requirements) specified in Item 10;
  - b. pay the allowances and meet the costs specified in Item 11;
  - c. make all payments as and when specified in Item 6; and

d. provide facilities and assistance as specified in Item 12.

3.2. **Budget breakdown**

A budget breakdown is set out in Attachment A ('Budget' section) (**Budget Breakdown**). The Budget Breakdown is included in this contract for information only and does not provide any right or entitlement to the Service Provider.

3.3. **The Commonwealth's rights to defer payment**

3.3.1. The Commonwealth will be entitled (in addition and without prejudice to any other right it may have) to defer payment or reduce the amount of any Instalment if and for so long as the Service Provider has not completed, to the satisfaction of the Commonwealth, that part of the Services to which the Instalment relates.

3.4. **Taxes, duties and government charges**

3.4.1. Except as provided by this clause 3.4, the Service Provider must pay all taxes, duties and government charges imposed or levied in Australia or overseas in connection with the performance of this contract.

3.4.2. Unless otherwise indicated, the fees and all other consideration for any supply made under this contract is exclusive of any GST imposed on the supply.

3.4.3. If one party (the supplier) makes a taxable supply to the other party (the recipient) under this contract, on receipt of a tax invoice from the supplier, the recipient will pay without setoff an additional amount to the supplier equal to the GST imposed on the supply in question.

3.4.4. No party may claim or retain from the other party any amount in relation to a supply made under this contract for which the first party can obtain an input tax credit or decreasing adjustment.

3.5. **Superannuation**

3.5.1. This contract is entered into on the understanding that the Commonwealth is not required to make any superannuation contributions in connection with the contract, unless stated to the contrary in Item 10.

3.6. **Interest**

3.6.1. This clause 3.5 only applies where the amount of the interest payable exceeds \$100.

3.6.2. For payments made by the Commonwealth after the payment is due, the Commonwealth pays the unpaid amount plus interest on the unpaid amount.

3.6.3. Interest payable under this clause 3.5 will be simple interest calculated in respect of each calendar day from the day after the amount was due and payable, up to and including the day that the Commonwealth effects payment as represented by the following formula:

SI = UA x GIC x D

where:

SI = simple interest amount;

UA = the unpaid amount;

GIC = General Interest Charge daily rate; and

D = the number of days from the day after payment was due up to and including the day that payment is made

3.6.4. For the purpose of this clause Schedule 112:

**General Interest Charge Rate** means the general interest charge rate determined under section 8AAD of the *Taxation Administration Act 1953* on the day that payment is due, expressed as a decimal rate per day.

#### 4. Intellectual Property

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##### 4.1. Use of Commonwealth Material

4.1.1. The Commonwealth agrees to provide Commonwealth Material to the Service Provider as specified in Item 13.

4.1.2. The Commonwealth grants (or will procure) a royalty-free, non-exclusive licence for the Service Provider to use, reproduce and adapt the Commonwealth Material for the purposes of this contract.

4.1.3. The Service Provider must use the Commonwealth Material strictly in accordance with any conditions or restrictions set out in Item 14, and any direction from the Commonwealth.

##### 4.2. Rights in Contract Material

4.2.1. Intellectual Property in all Contract Material vests or will vest in the Commonwealth.

4.2.2. Clause 4.2.1 does not affect the ownership of Intellectual Property in:

- a. any Commonwealth Material incorporated into Contract Material; or
- b. any Material in existence at the Commencement Date and specified in Item 15.

4.2.3. The Service Provider grants to (or must procure for) the Commonwealth a perpetual, irrevocable, royalty-free, world-wide, non-exclusive licence (including a right of sub-licence) to use, reproduce, adapt, modify, perform, distribute, communicate and exploit any existing Material referred to in clause 4.2.2.b, in conjunction with the Contract Material, for any purpose.

4.2.4. The Service Provider must ensure that the licence granted in clause 4.2.3 includes a right for the Commonwealth to licence the existing Material in

conjunction with the Contract Material to the public under an Open Access Licence.

4.2.5. The Service Provider must, on request by the Commonwealth, create, sign, execute or otherwise deal with any document necessary or desirable to give effect to this clause 4.2.

4.2.6. The Service Provider warrants that:

- a. it is entitled; or
- b. it will be entitled at the relevant time,

to deal with the Intellectual Property in the Contract Material in the manner provided for in this clause 4.2.

### 4.3. **Moral Rights**

4.3.1. In this clause 4.3:

- Permitted Acts** means any of the following classes or types of acts or omissions:
- a. using, reproducing, adapting or exploiting all or any part of the Contract Material, with or without attribution or authorship;
  - b. supplementing the Contract Material with any other Material;
  - c. using the Contract Material in a different context to that originally envisaged;
  - d. releasing the Contract Material to the public under an Open Access Licence; and
  - e. the acts or omissions, specifically set out in Item 15;
- but does not include false attribution or authorship.

4.3.2. Where the Service Provider is a natural person and the author of the Contract Material, he or she:

- a. consents to the performance of the Permitted Acts by the Commonwealth or any person claiming under or through the Commonwealth (whether occurring before or after the consent is given); and
- b. acknowledges that their attention has been drawn to any general policies and practices regarding Moral Rights as described in Item 15.

4.3.3. Where clause 4.3.2 does not apply, the Service Provider must:

- a. obtain from each author a written consent which extends directly or indirectly to the performance of the Permitted Acts by the Commonwealth or any person claiming under or through the Commonwealth (whether

occurring before or after the consent is given) and, on request, to provide the executed original of any such consent to the Commonwealth; and

- b. ensure that each author's attention is drawn to the Commonwealth's general policies and practices regarding Moral Rights as described in Item 15.

4.3.4. This clause 4.3 does not apply to any Commonwealth Material incorporated in the Contract Material.

## **5. Confidentiality of Official Information and other security obligations**

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### **5.1. Interpretation**

5.1.1. In this clause 5:

**Security Classified Resources** means Official Resources that, if compromised, could have adverse consequences for the Commonwealth; and

**Security Incident** means an actual or suspected security breach, violation, contact or approach from those seeking unauthorised access to Official Resources.

### **5.2. Security Classification**

5.2.1. Unless otherwise notified by the Commonwealth, the highest level of Security Classified Resources that the Service Provider will have access to under this contract is that specified in Item 16.

### **5.3. Confidentiality of Official Information**

5.3.1. The Service Provider must not, without prior written authorisation of the Commonwealth, disclose any Official Information to any person (unless required to do so by law).

5.3.2. The Service Provider is authorised to provide Official Information to those Personnel and subcontractors who require access for the purposes of this contract subject to them having obtained the appropriate security clearance.

5.3.3. The Service Provider must, on request by the Commonwealth at any time, arrange for the Personnel and subcontractors referred to in clause 5.3.2 to give a written undertaking in a form acceptable to the Commonwealth relating to the use and non-disclosure of Official Information.

5.3.4. The Service Provider must secure all Official Information against loss and unauthorised access, use, modification or disclosure.

### **5.4. Other security obligations of Service Provider**

5.4.1. The Service Provider must:

- a. ensure that all Personnel that require access to Security Classified Resources have obtained the appropriate security clearance;

- b. prevent access to Security Classified Resources by Personnel whose security clearances are revoked, have lapsed or who no longer require access for the purposes of the contract;
- c. make its Personnel available to attend any security training as required by the Commonwealth;
- d. notify the Commonwealth of any change in the personal circumstances of Personnel referred to in clause 5.4.1.a;
- e. notify the Commonwealth immediately if it becomes aware that a Security Incident has occurred and otherwise implement the Commonwealth's procedures for Security Incident reporting as advised by the Commonwealth from time to time;
- f. not perform the Services outside Australia without the Commonwealth's prior written approval; and
- g. comply with the additional security requirements specified in Item 16, if any, and any variations or additions to those requirements as notified by the Commonwealth from time to time.

5.4.2. The Service Provider must implement security procedures to ensure that it meets its obligations under this clause 5 and must provide details of these procedures to the Commonwealth on request.

## **6. Dealing with Copies**

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### **6.1. Interpretation**

6.1.1. In clause 6.2:

**Copy** means any document, device, article or medium in which Commonwealth Material, Contract Material, or Official Information is embodied.

### **6.2. Actions at end of contract**

6.2.1. The Service Provider must, on expiration or termination of this contract, deal with all Copies as directed by the Commonwealth, subject to any requirement of law binding on the Service Provider.

## **7. Confidential Information of Service Provider**

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### **7.1. Confidential Information not to be disclosed**

7.1.1. Subject to clause 7.2, the Commonwealth will not, without the prior written authorisation of the Service Provider, disclose any Confidential Information of the Service Provider to a third party.



## 7.2. **Exceptions to obligations**

7.2.1. The obligations of the Commonwealth under this clause 7 will not be taken to have been breached to the extent that Confidential Information:

- a. is disclosed by the Commonwealth to its Personnel solely in order to comply with its obligations, or to exercise its rights, under this contract;
- b. is disclosed by the Commonwealth to its internal management Personnel, solely to enable effective management or auditing of contract-related activities;
- c. is disclosed by the Commonwealth to the responsible Minister;
- d. is disclosed by the Commonwealth in response to a request by a House or a Committee of the Parliament of the Commonwealth of Australia;
- e. is shared by the Commonwealth within the Commonwealth's organisation, or with another agency, where this serves the Commonwealth's legitimate interests;
- f. is authorised or required by law to be disclosed; or
- g. is in the public domain otherwise than due to a breach of this clause 7.

7.2.2. Where the Commonwealth discloses Confidential Information to another person pursuant to clauses 7.2.1.a - 7.2.1.e, the Commonwealth will notify the receiving person that the information is confidential.

7.2.3. In the circumstances referred to in clauses 7.2.1.a, 7.2.1.b and 7.2.1.e, the Commonwealth agrees not to provide the information unless the receiving person agrees to keep the information confidential.

## 7.3. **Period of confidentiality**

7.3.1. The obligations under this clause 7 in relation to an item of information described in Item 18 continue for the period set out there in respect of that item.

## 8. **Liability**

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### 8.1. **Proportionate liability regimes excluded**

8.1.1. To the extent permitted by law, the operation of any legislative proportionate liability regime is excluded in relation to any claim against the Service Provider under or in connection with this contract.

### 8.2. **Indemnity**

8.2.1. The Service Provider indemnifies the Commonwealth from and against any:

- a. cost or liability incurred by the Commonwealth;
- b. loss of or damage to property of the Commonwealth; or
- c. loss or expense incurred by the Commonwealth in dealing with any claim against it including legal costs and expenses on a solicitor/own client basis

and the cost of time spent, resources used or disbursements paid by the Commonwealth,

arising from either:

- d. a breach by the Service Provider of this contract; or
- e. an act or omission involving fault on the part of the Service Provider or its Personnel in connection with this contract.

8.2.2. The Service Provider's liability to indemnify the Commonwealth under clause 8.2.1 will be reduced proportionately to the extent that any act or omission involving fault on the part of the Commonwealth or its Personnel contributed to the relevant cost, liability, loss, damage or expense.

8.2.3. The right of the Commonwealth to be indemnified under this clause 8.2 is in addition to, and not exclusive of, any other right, power or remedy provided by law, but the Commonwealth is not entitled to be compensated in excess of the amount of the relevant cost, liability, loss, damage or expense.

## **9. Dispute resolution**

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### **9.1. Procedure for dispute resolution**

9.1.1. The parties agree that a dispute arising under this contract will be dealt with as follows:

- a. the party claiming that there is a dispute will give the other party a notice setting out the nature of the dispute;
- b. within 5 Business Days (or such other period as agreed by the parties in writing) each party will nominate a representative not having any prior involvement in the dispute;
- c. the representatives will try to settle the dispute by direct negotiation between them;
- d. failing settlement within a further 10 Business Days or such other period as agreed by the parties in writing (or failure of one or both parties to nominate a representative within the period set out in clause 9.1.1.b), the parties may agree to refer the dispute to an independent third person with power:
  - i. to intervene and direct some form of resolution, in which case the parties will be bound by that resolution; or
  - ii. to mediate and recommend some form of non-binding resolution;
- e. the parties will co-operate fully with any process instigated under clause 9.1.1.d in order to achieve a speedy resolution; and
- f. if the parties have been unable to agree to refer the dispute to an independent third person, or they have agreed and a resolution is not reached within a further 20 Business Days (or such other period as the

parties may agree in writing), either party may commence legal proceedings.

9.2. **Costs**

9.2.1. Each party will bear its own costs of complying with this clause 9, and the parties will bear equally the cost of any third person engaged under clause 9.1.1.d.

9.3. **Continued performance**

9.3.1. Despite the existence of a dispute, the Service Provider must (unless requested in writing by the Commonwealth not to do so) continue to perform the Services.

9.4. **Exemption**

9.4.1. This clause 9 does not apply to:

- a. action by the Commonwealth under or purportedly under clause 10.1;
- b. action by either party under or purportedly under clause 10.2; or
- c. legal proceedings by either party seeking urgent interlocutory relief.

**10. Termination or reduction in scope of Services**

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10.1. **Termination for convenience**

10.1.1. The Commonwealth may by notice, at any time and in its absolute discretion, terminate this contract or reduce the scope of the Services immediately.

10.1.2. The Service Provider must, on receipt of a notice of termination or reduction:

- a. stop or reduce work as specified in the notice;
- b. take all available steps to minimise loss resulting from that termination or reduction; and
- c. continue work on any part of the Services not affected by the notice.

10.1.3. In the event of termination under clause 10.1.1, the Commonwealth will be liable only:

- a. to pay any Instalment relating to Services completed before the effective date of termination;
- b. to reimburse any reasonably substantiated expenses the Service Provider unavoidably incurs relating entirely to Services not covered under clause 10.1.3.a;
- c. to pay any allowance and meet any costs unavoidably incurred under Item 11 before the effective date of termination; and
- d. to provide the facilities and assistance necessarily required under Item 12 before the effective date of termination.

- 10.1.4. The Commonwealth will not be liable to pay amounts under clause 10.1.3.a and 10.1.3.b which would, added to any fees already paid to the Service Provider under this contract, together exceed the fees set out in Item 10.
- 10.1.5. In the event of a reduction in the scope of the Services under clause 10.1.1, the Commonwealth's liability to pay fees or allowances, meet costs or provide facilities and assistance under clause 3 will, unless there is agreement in writing to the contrary, reduce in accordance with the reduction in the Services.
- 10.1.6. The Service Provider will not be entitled to compensation for loss of prospective profits.
- 10.2. **Termination for fault**
- 10.2.1. If a party fails to satisfy any of its obligations under this contract, then the other party - *if it considers that the failure is:*
- a. *not capable of remedy* - may, by notice, terminate the contract immediately; or
  - b. *capable of remedy* - may, by notice require that the failure be remedied within the time specified in the notice and, if not remedied within that time, may terminate the contract immediately by giving a second notice.
- 10.2.2. The Commonwealth may also by notice terminate this contract immediately (but without prejudice to any prior right of action or remedy which either party has or may have) if the Service Provider:
- a. *being a corporation* - comes under one of the forms of external administration referred to in chapter 5 of the *Corporations Act 2001* (Cth), or has an order made against it for the purpose of placing it under external administration; or
  - b. *being an individual* - becomes bankrupt or enters into a scheme of arrangement with creditors.

## 11. Notices

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### 11.1. Content of notice

- 11.1.1. A notice under this contract is only effective if it is in writing, and dealt with as follows:
- a. *if given by the Service Provider to the Commonwealth* - addressed to the Project Officer at the address specified in Item 19 or as otherwise notified by the Commonwealth; or
  - b. *if given by the Commonwealth to the Service Provider* - given by the Project Officer (or any superior officer to the Project Officer) and addressed (and marked for attention) as specified in Item 20 or as otherwise notified by the Service Provider.

- 11.1.2. A party may, from time to time, notify the other party of any change to its details in clause 11.1.1.
- 11.1.3. A notice is to be:
- a. signed by the person giving the notice and delivered by hand; or
  - b. signed by the person giving the notice and sent by pre-paid post; or
  - c. signed and transmitted electronically by the person giving the notice by electronic mail.
- 11.1.4. For the avoidance of doubt, an electronic signature on an email will be taken to be a signed notice for the purpose of clause 11.1.3.
- 11.2. **When effective notice is received**
- 11.2.1. A notice is deemed to be effected:
- a. *if delivered by hand* - upon delivery to the relevant address;
  - b. *if sent by post* - upon delivery to the relevant address;
  - c. *if transmitted electronically* - upon actual receipt by the addressee.
- 11.2.2. A notice received after 5.00 pm, or on a day that is not a Business Day in the place of receipt, is deemed to be effected on the next Business Day in that place.

## **12. Indigenous Procurement Policy**

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### **12.1. Definitions**

12.1.1. In this clause 12:

**Indigenous enterprise** means an organisation that is 50% or more Indigenous owned that is operating a business

12.1.2. It is Commonwealth policy to stimulate Indigenous entrepreneurship and business development, providing Indigenous Australians with more opportunities to participate in the economy.

12.1.3. The Service Provider must use its reasonable endeavours to increase its:

- a. purchasing from Indigenous enterprises; and
  - b. employment of Indigenous Australians,
- in the delivery of the Services.

12.1.4. Purchases from Indigenous enterprises may be in the form of engagement of an Indigenous enterprise as a subcontractor, and use of Indigenous suppliers in the Service Provider's supply chain.

## **13. Modern Slavery**

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13.1.1. In this clause 13:

- a. **Guiding Principles on Business and Human Rights** means the United Nations' Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework available at [https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr\\_en.pdf](https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf).
  - b. **Modern Slavery** has the same meaning as it has in the *Modern Slavery Act 2018* (Cth).
- 13.1.2. The Service Provider must take reasonable steps to identify, assess and address risks of Modern Slavery practices in the operations and supply chains used in the provision of the Services.
- 13.1.3. If at any time the Service Provider becomes aware of Modern Slavery practices in the operations and supply chains used in the performance of this contract, the Service Provider must as soon as reasonably practicable take all reasonable action to address or remove these practices, including where relevant by addressing any practices of other entities in its supply chains.

#### **14. Work health and safety**

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##### **14.1. Compliance with Work Health Safety obligations**

- 14.1.1. The Service Provider must, in carrying out this contract, comply with:
- a. all relevant legislation, codes of practice and national standards relating to work health and safety, including in relation to consultation, representation and participation; and
  - b. all applicable policies and procedures relating to work health and safety, including those that apply to the Commonwealth's premises when using those premises. For the avoidance of doubt, the Service Provider must ensure that its work health and safety policy is suitable for the engagement of a fisheries ranger as part of the Services.
- 14.1.2. In the event of any inconsistency between any of the policies and procedures referred to in clause 14.1, the Service Provider must comply with those policies and procedures that produce the highest level of health and safety.

#### **15. Privacy**

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##### **15.1. Obligations of Service Provider in relation to privacy**

- 15.1.1. The Service Provider must, in providing the Services:
- a. comply with its obligations under the Privacy Act and not to otherwise do any act or engage in any practice which, if done or engaged in by the Commonwealth, would be a breach of an Australian Privacy Principle under the Privacy Act; and
  - b. comply with any directions, guidelines, determinations or recommendations referred to in, or relating to the matters set out in, Item 17, to the extent that

they are consistent with the obligations referred to in subclause 15.1.1.a above.

**15.2. Notification of possible breach**

15.2.1. The Service Provider must notify the Commonwealth immediately if it becomes aware of a breach or possible breach of any of its obligations under this clause 15.

**16. Audit and access**

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**16.1. Service provider to give access to material**

16.1.1. The Service Provider must:

- a. give the Project Officer, or any persons authorised in writing by the Project Officer, access to assets, including any computer hardware or software or other equipment, or premises where the Services are being performed or where Official Resources are located; and
- b. permit those persons to inspect and take copies of any Material relevant to the Services, including but not limited to details of the Service Provider's compliance with all Australian standards.

16.1.2. The rights referred to in clause 16.1.1. are subject to:

- a. the Commonwealth providing reasonable prior notice;
- b. the reasonable security procedures in place at the premises; and
- c. if appropriate, execution of a deed of confidentiality by the persons to whom access is given.

**16.2. Authorised persons**

16.2.1. The Auditor-General and Information Officer (including their delegates) are persons authorised for the purposes of this clause 16.

**16.3. Preservation of statutory powers of Auditor-General**

16.3.1. This clause 16 does not detract from the statutory powers of the Auditor-General or Information Officer (including their delegates).

**17. Insurance**

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**17.1. Types of Insurance**

17.1.1. The Service Provider must:

- a. effect and maintain the insurance specified in Item 21; and
- b. on request, provide proof of insurance acceptable to the Commonwealth.

17.2. **Duration of obligation**

17.2.1. This clause 17 continues in operation for so long as any obligations remain in connection with the contract.

**18. Extension of provisions to subcontractors and Personnel**

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18.1. **Definition**

18.1.1. In this clause 18:

**Requirement** means an obligation, condition, restriction or prohibition binding on the Service Provider under this contract.

18.2. **Subcontractors to comply with Requirements**

18.2.1. The Service Provider must ensure that:

- a. its subcontractors and Personnel comply with all relevant Requirements; and
- b. any contract entered into in connection with this contract imposes all relevant Requirements on the other party.

18.2.2. The Service Provider must exercise any rights it may have against any of its subcontractors, Personnel or third parties in connection with a Requirement in accordance with any direction by the Commonwealth.

**19. Australian Government Acknowledgement**

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19.1.1. The Service Provider must, and must ensure that all subcontractors or third parties performing services in connection with this contract, acknowledge the Australian Government' (in the form required by the Commonwealth under clause 19.1.3) in all publicly available communications, including; advertising; media releases; web and social media content; community engagement materials; publications; and programs completed in relation to this contract and the Services (**Communications Material**).

19.1.2. Without limiting clause 19.1.1, if the Service Provider or a sub-contractor displays a logo on Communications Material, the Australian Government logo must also be displayed in a manner consistent with requirements in the Australian Government branding protocols and in a form approved by the Commonwealth under clause 19.1.3 . Information on Australian Government branding protocols can be found at: <https://www.pmc.gov.au/resource-centre/government/australian-government-branding-guidelines-use-australian-government-logo-australian-government-departments-and-agencies>.

19.1.3. The Service Provider must, at least one week prior to the proposed publication date, submit all Communication Material to the Project Officer for approval of the Australian Government logo and written acknowledgement. For the avoidance of doubt, this includes Communications Material developed under clause 19.1.1 and 19.1.2.



## **20. Conflict of interest**

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### **20.1. Definition**

20.1.1. In this clause 20:

**Conflict** means any matter, circumstance, interest, or activity affecting the Service Provider, its Personnel or subcontractors which may or may appear to impair the ability of the Service Provider to provide the Services to the Commonwealth diligently and independently.

### **20.2. No conflict of interest**

20.2.1. The Service Provider warrants that, to the best of its knowledge after making diligent inquiry, at the Commencement Date no Conflict exists or is likely to arise in the performance of the Services.

### **20.3. Notification of conflict of interest**

20.3.1. If, during the period of this contract a Conflict arises, or appears likely to arise, the Service Provider must:

- a. notify the Commonwealth immediately;
- b. make full disclosure of all relevant information relating to the Conflict; and
- c. take any steps the Commonwealth reasonably requires to resolve or otherwise deal with the Conflict.

## **21. Relationship of parties**

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21.1.1. The Service Provider is not by virtue of this contract an officer, employee, partner or agent of the Commonwealth, nor does the Service Provider have any power or authority to bind or represent the Commonwealth.

21.1.2. The Service Provider must:

- a. not misrepresent its relationship with the Commonwealth; and
- b. not engage in any misleading or deceptive conduct in relation to the Services.

## **22. Waiver**

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22.1.1. A failure or delay by a party to exercise any right or remedy it holds under this contract or at law does not operate as a waiver of that right.

22.1.2. The exercise or partial exercise by a party of any right or remedy it holds under this contract or at law does not prevent any other exercise or partial exercise of that right or remedy by the party.

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**23. Variation**

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23.1.1. A variation of this contract is binding only if agreed in writing and signed by the parties.

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**24. Assignment**

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24.1.1. The Service Provider cannot assign its obligations, and must not assign its rights, under this contract without the Commonwealth's prior written approval.

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**25. Costs and stamp duty**

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25.1.1. Each party is to pay its own costs, charges and expenses (including, without limitation, legal expenses) in entering into this contract, except for stamp duty.

25.1.2. Any stamp duty, duties or other taxes of a similar nature (including fines, penalties and interest) which are payable in connection with the contract must be paid by the Service Provider.

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**26. Further Action**

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26.1.1. Each party at its own expense must, at another party's request, execute and cause its successors to execute documents and do everything else necessary or appropriate to bind the parties and their successors under the contract in accordance with the intention expressed in the contract.

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**27. Survival**

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27.1.1. Unless the contrary intention appears, the expiry or earlier termination of this contract will not affect the continued operation of any provision relating to:

- a. licensing of Intellectual Property;
- b. confidentiality;
- c. security;
- d. privacy;
- e. dealing with copies;
- f. books and records;
- g. audit and access;
- h. an indemnity;

or any other provision which expressly or by implication from its nature is intended to continue.

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**28. Compliance with Legislation**

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**28.1. Definition**

28.1.1. In this clause 28:

**Legislation** means a provision of a statute or subordinate legislation of the Commonwealth, or of a State, Territory or local authority.

**28.2. Compliance with legislation**

28.2.1. The Service Provider must comply with any Legislation applicable to its performance of this contract.

28.2.2. The Service Provider acknowledges that its attention has been drawn to the fact sheet referred to in Item 22 which provides details of some Legislation that may be applicable to the performance of the contract.

**29. Applicable law**

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29.1.1. This contract is governed by and will be construed in accordance with the laws applicable in the State or Territory specified in Item 23.

29.1.2. Each party submits to the non-exclusive jurisdiction of the courts of that State or Territory.

**30. Counterparts**

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30.1.1. This contract may be signed in any number of counterparts and all such counterparts taken together will be deemed to constitute one and the same document. Execution of the contract will be complete when each party holds a copy of this contract signed by the other party.

## THE SCHEDULE - CONTRACT DETAILS

### 1. Proposal

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#### 1.1. Background

The Cocos (Keeling) Islands Applied Laws Amendment (Fish Resources Management) Ordinance 2022 (the Ordinance) came into effect in April 2022.

The Ordinance amends the applied *Fish Resources Management Act 1994 (WA)* (FRMA 1994) and the *Fish Resources Management Regulations 1995 (WA)* (FRMR 1994) to create a recreational fishing management framework that is tailored to the unique marine environments and interests of the Cocos (Keeling) Islands (CKI) community.

Cocos Marine Care (CMC) formed organically amongst CKI residents to represent the community in interactions with the Australian Government around development of the Ordinance.

The Western Australian Department of Primary Industries and Regional Development (DPIRD) previously provided fisheries services to the Indian Ocean Territories (IOT), including CKI under a Service Delivery Arrangement. However, DPIRD have progressively withdrawn services (final services to be withdrawn in June 2023) resulting in the need for a new IOT Fisheries Management Framework (Framework).

Following introduction of the Ordinance and staged withdrawal of DPIRD, the Australian Government, in consultation with stakeholders developed a new Framework for the IOT. With reference to CKI, the elements of this Framework include:

- Establishment of a ministerially appointed Fisheries Advisory Committee (FAC).
- Provision of funds to the Service Provider to work closely with local fisheries management committee, CMC to deliver selected fisheries services including:
  - o engagement of a Community Fisheries Ranger;
  - o engagement of a technical fisheries partner;
  - o development of a community education campaign;
  - o undertaking of conduct stock assessments; and
  - o other specified tasks.
- Compliance activities are proposed to be undertaken by Australian Federal Police (AFP).
- Engagement of experts to assist with management and application of applied fisheries legislation, for example scientists, researchers and licensing specialists.
- Engagement with Parks Australia in the context of IOT marine park management planning.
- Delegations under fisheries applied law to departmental Senior Executive Service.

A phased approach to establishing the IOT fisheries management framework has been agreed. Phase one includes:

- Establishment of FAC.

- Development of a Science and Monitoring Plan.
- Development of a Community Education Plan.
- Development of compliance arrangements.
- Provision of funds to the Service Provider to work closely with local fisheries management committee, CMC in delivering the Services.

The CMC is a newly created independent organisation that has not previously been in receipt of funding from the Australian Government. To support CMC and ensure appropriate application of established processes and policies to the Services, the Service Provider will manage and work closely with CMC in delivering the Services.

Phase 2 focuses on implementation and capacity building activities. While Phase 3 will involve ongoing fisheries management functions by the Service Provider, CMC, FAC and the Australian Government. Enforcement is proposed to be undertaken by the AFP with localised monitoring activities undertaken by rangers.

Further detail on the Proposal is set out in the document titled “Cocos (Keeling) Islands Fisheries Management – Initial 12-month plan” submitted by Ms Kendra Travaille on 24 November 2022 on behalf of CMC and the Service Provider at Attachment A.

## 2. Services

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The Service Provider agrees to deliver the following Services. It is intended that the Service Provider will work closely with the CMC in providing the Services.

Fisheries management services for CKI including:

- **General:** Manage and provide for the conservation and sustainable use of marine fisheries in accordance with applied fisheries legislation, including the *Fish Resource Management Act (1994) (WA) (CKI)*.
- Work towards enabling the local community to effectively participate in the management of fisheries at CKI.
- Facilitate a successful transition towards a collaborative fisheries management framework for CKI.
- **Administration:** Ensure appropriate personnel, systems, processes and policies are in place to effectively deliver fisheries management services including:
  - management and administration of funding provided under this contract;
  - review and amend as necessary workplace policies to align with management activities;
  - engage technical fisheries partner;
  - recruit Community Fisheries Ranger;
  - assess immediate ranger training and equipment needs;

- manage ranger activities; and
  - review of ongoing requirements (full time equivalent, training, equipment, etc.).
- **Education and outreach:** Effectively communicate fishing rules and rationale to CKI community and visitors to promote voluntary compliance, including:
  - development and delivery of community education program regarding new fishing rules and fisheries sustainability principles, via:
    - one-on-one engagement at boat ramps, airport, community events, etc.
    - public meetings and community presentations to share rules and answer questions
    - publishing and distributing informational materials
    - sharing information via newsletter articles and social media posts; and
  - installation of signage with new rules at high traffic areas, e.g. boat ramps and airport.
- **Compliance and enforcement:** Develop fit-for-purpose system for delivering fisheries compliance and enforcement services at CKI including:
  - where requested by the Commonwealth, provide advice and assistance to the Commonwealth on formalising compliance and enforcement partnership with the AFP;
  - where requested by the Commonwealth, provide advice and assistance to the Commonwealth on establishing working arrangements between CMC and the AFP; and
  - provide advice and assistance to the Commonwealth in reviewing and confirming ongoing compliance and enforcement arrangements.
- **Science and monitoring:** Collect data on fisheries activities and fish stocks to inform and evaluate management including:
  - continue recreational fisheries monitoring program to collect catch, effort and export statistics;
  - update data management system for collecting, storing, managing and retrieving recreational fishing data;

- where requested by the Commonwealth, provide advice and assistance to the Commonwealth in negotiating a data sharing agreement with DPIRD for access to historical data;
  - produce 6-month and annual reports on fishing and export activities;
  - continue biological data collection for key recreational fishing species, as part of stock assessment program;
  - update giant clam (*Tridacna maxima*) assessment, as part of the Australian Government Department of Climate Change, Energy, the Environment and Water, Wildlife Trade Operation conditions; and
  - where requested by the Commonwealth, provide advice and assistance to the Commonwealth to develop a longer-term Science and Monitoring Plan, including robust stock assessment program.
- **Policy and management:** Advise the Australian Government on fisheries matters to ensure effective governance and management, including:
    - Establishment of systems and processes for managing community fisher and cultural exemptions; and
    - Where requested by the Commonwealth, provide advice and assistance to the Commonwealth to review policy changes required to comply with the applied *Aquatic Resources Management Act 2016 (WA)*.

## **Milestones**

### 2.1.1. Milestone 1

- a. Technical fisheries partner organisation engaged and working with Service Provider and CMC towards provision of Services.
- b. Community Fisheries Ranger employed by Service Provider and suitably equipped, including office set-up.
  - i. Introductory meetings held with relevant stakeholders including Parks Australia and AFP.
  - ii. Development of a work schedule outlining daily/weekly/monthly activities.
- c. (At least) 1 community information session held to introduce ranger and new arrangements.
  - i. Educational materials to be provided to participants, including as a minimum, a factsheet and information brochure.

- ii. Information session to be advertised and the number of attendee and issues discussed recorded.

Due date: three months after Commencement Date.

#### 2.1.2. Milestone 2

- a. Fishing rules signage installed at the airport, and at a minimum of two CKI boat ramps (one on West Island and one on Home Island)
  - i. Relevant approvals to erect signage to be obtained.
  - ii. Acknowledgment of Australian Government funding to be displayed on signage as per Clause 19.
- b. In consultation with Parks Australia and the AFP, install buoys to mark the Gong Gong sanctuary zone.
  - i. Relevant approvals to install buoys obtained.
  - ii. Ongoing management plan of buoys to be developed and provided to the Commonwealth.
- c. Processes for managing exemptions under Regulation 121(3)(4)(5) of the applied *Fish Resource Management Regulation 1995 (WA)* developed and implemented in consultation with the CKI Fisheries Management Committee, CMC and the Commonwealth.

Due date: six months after Commencement Date.

#### 2.1.3. Milestone 3

- a. Proposed Budget and workplan for Year 2 (Phase 2) submitted to the Commonwealth for consideration and review.
- b. Report on recreational fishing activities and export data to the Commonwealth.

Due date: nine months after the Commencement Date.

#### 2.1.4. Milestone 4

- a. Delivery of Final Report on contract activities as outlined in Services, including an audited Financial Statement and information on activities, learnings and recommendations for Phase 2.
- b. Giant clam (*T.maxima*) field survey completed and report submitted to the Commonwealth.

Due date: eleven months after the Commencement Date.

### **3. Required Contract Material**

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#### **3.1. Technical Reports**



1. Giant clam (*T.maxima*) Field Survey Report to be provided in electronic format at least eleven months after commencement date.
2. Stock Assessment Report and any other materials required to interpret the report to be provided in electronic format during contract period.
3. Any other technical reports set out in Item 2 above (Services) or otherwise required to be provided as part of the Services

### 3.2. **Progress Reports**

- 3.2.1. Progress Report 1 is due six months after the Commencement Date. Progress report is to be provided electronically in PDF and word format and include:
  - a. a summary of activities undertaken by the Service Provider since the Commencement Date, including progress towards the Milestones set out in paragraph 2 above; and
  - b. costs incurred against the budget breakdown set out in Attachment A.

### 3.3. **Final Report**

- 3.3.1. A Final Report is due eleven (11) months after the Commencement Date. The Final Report is to be provided electronically in PDF and word format and include:
  - a. a summary of activities completed since the Commencement Date, including progress towards the Milestones set out in paragraph 2 above, and copies of all scientific and research reports set out in Attachment A ('Program Milestones' section);
  - b. an audited Financial Statement certified by the Cocos (Keeling) Islands Shire Council Chief Executive Officer outlining how funds provided under this contract were expended against the Budget breakdown set out in Attachment A.

### 3.4. **Work Health and Safety Policy**

- 3.4.1. The Service Provider is to provide a copy of their Work Health and Safety Policy to the Commonwealth on request.

## 4. **Policies, Standards and Guidelines**

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### 4.1. **Australian standards**

Not Applicable.

### 4.2. **Department or Commonwealth policies, standards or guidelines**

Not Applicable.

## **5. Commencement, time frame and expiry**

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### **Commencement Date:**

The contract is deemed to have commenced once signed by both parties.

### **Time frame:**

Refer to Milestones in Item 2.1 above.

### **Expiry Date:**

Subject to the provisions in this contract allowing for an extension of the Term, the Term will expire 12 months after the Commencement Date.

The Commonwealth may, in its absolute discretion, extend the Expiry Date in three monthly increments for a maximum of twelve (12) months by providing written notice to the Service Provider no less than 30 days prior to the Expiry Date.

During any extended Term, all of the terms and conditions of this contract will continue to operate unless otherwise agreed by both parties.

## **6. Invoicing and Payment**

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### **Invoices:**

Invoices must be issued by the Service Provider at the times for payment set out in Item 10.

To be correctly rendered, invoices must include the following information:

- a. the words "tax invoice" stated prominently;
- b. the Service Provider's name;
- c. the Service Provider's ABN;
- d. the Commonwealth's name and address;
- e. the date of issue of the tax invoice;
- f. the title of this contract and the contract number or purchase order number (if any);
- g. details of fees, allowances and costs including the items to which they relate;
- h. written certification in a form acceptable to the Commonwealth that the Service Provider has paid all remuneration, fees or other amounts payable to its Personnel and/or subcontractors involved in performance of the contract; and
- i. relate only to supplies that have been delivered to the Commonwealth in accordance with this contract.

All claims for allowances or costs must be supported by receipts or other documentation which clearly substantiate the Service Provider's entitlement to those allowances or costs.

An invoice is not correctly rendered where:

- a. it includes amounts that are not properly payable under this contract or are incorrectly calculated; or
- b. it relates to a payment in relation to which the Commonwealth has exercised its rights under clause 3.2 of the contract.

All invoices must be addressed to the Project Officer.

**Payment:**

The Commonwealth will pay the Service Provider within 20 calendar days after acknowledgement of the satisfactory delivery of the goods or services and receipt of a correctly rendered invoice. If this period ends on a day that is not a Business Day, payment is due on the next Business Day

Payment will be effected by electronic funds transfer (EFT) to the following bank account of the Service Provider: **^insert details^**

**7. Project Officer**

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The Project Officer is the person for the time-being holding, occupying or performing the duties of Director, Indian Ocean Territories Government Arrangements and Contracts, currently Andrew Murphy, available on telephone number 0467 813 898 or via the address set out in Item 19.

**8. Subcontractors**

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The following subcontractors are approved by the Commonwealth under clause 2.3.1:

<b>Part of the Services being subcontracted</b>	<b>Subcontractor</b>	<b>Additional conditions/comments</b>
Management, oversight and selected administrative tasks, including those parts of the Services noted as being the responsibility 'CMC' in the Proposal set out in Attachment A	Cocos Marine Care	Service Provider is to partner with Cocos Marine Care in the performance of services outlined in this contract.
Provision of expert advice and support including those parts of	To be advised.	Services include engagement of an expert partner to assist the Service Provider with

the Services noted as being the responsibility of the 'Technical partner' in the Proposal set out in Attachment A

technical advice and expertise. Once identified and engaged, formal subcontractor approval required from Commonwealth in accordance with clause 2.3.1.

Research and data collection including those parts of the Services noted as being the responsibility 'Biospherics' in the Proposal set out in Attachment A

Biospherics (Dr Jeremy Prince)

Stock assessment (including clams assessment to support Commonwealth Wildlife Trade Operations Approval)

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**9. Specified Personnel**

Not Applicable.

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**10. Fees**

The total fee for the Service is \$308,166 (GST exclusive) payable by the following Instalments:

- a. \$154,083 (GST exclusive) upon the Commencement Date;
- b. \$123,266.40 (GST exclusive) upon delivery of a Progress Report (as described in Item 3) and having made substantial progress (to the satisfaction of the Commonwealth) towards delivering the Services within the Timeframe set out in Item 5, including as a minimum, engagement of a fisheries ranger;
- c. \$30,816.60 (GST exclusive) upon delivery of a Final Report (as described in Item 3) and having completed (to the satisfaction of the Commonwealth) the Services (unless otherwise agreed by the Commonwealth in writing).

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**11. Allowances and Costs**

Not applicable

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**12. Facilities and Assistance**

Not Applicable.

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**13. Required Commonwealth Material**

Not Applicable.

**14. Use of Commonwealth Material**

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Not Applicable.

**15. Existing Material**

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**Permitted Acts**

In addition to those set out in clause 4.3.1, the following are 'Permitted Acts' for the purposes of clause 4.3.1e:

- a. use of the Contract Material for advertising, merchandising or promotional purposes of any kind; or
- b. incorporating the Contract Material into a website or as part of a training program.

**Agency policy on Moral Rights**

Not Applicable.

**16. Security Requirements**

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**Level of Security Classified Resources**

Official

**Additional Security Requirements**

The Service Provider must comply with the Protective Security Policy Framework (PSPF).

The Service Provider is authorised to disclose relevant Official Information to Cocos Marine Care and other subcontractors specified in the contract, or subsequently approved by the Commonwealth when performing the services as outlined in this contract, for the purpose of fulfilling its obligations under this contract.

**17. Privacy Codes, Guidelines, Determinations or Recommendations**

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Not Applicable.

**18. Service Provider's Confidential Information**

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Not Applicable.

**19. Department's Address for Notices**

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**Physical address**

[REDACTED]

**Postal address**

[REDACTED]

Email



**20. Service Provider's Address for Notices**

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**Physical address**

Lot 256 Jalan Melati, Home Island,  
Cocos (Keeling) Islands

**Postal address**

As above.

**Email**

[ceo@cocos.wa.gov.au](mailto:ceo@cocos.wa.gov.au)

**21. Insurance**

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Required insurance:

- a. workers' compensation as required by law;
- b. public liability insurance to a value of \$10 million per claim; and
- c. professional negligence insurance to a value of \$5 million per claim.

**22. Applicable Legislation**

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Not Applicable.

**23. Applicable Law**

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**Territory of the Cocos (Keeling) Islands**

## **Attachment A – Proposal**

CKI Fisheries proposal, 24 November 2022 incorporated as a reference document.

## Signatures

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SIGNED for and on behalf of the  
**COMMONWEALTH OF AUSTRALIA**,  
as represented by the **Department of  
Infrastructure, Transport, Regional  
Development and Communications  
and the Arts**:

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Kim Forbes

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*Signature*

In the presence of:

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*Signature of witness*

SIGNED for and on behalf of Cocos  
(Keeling) Islands Shire Council ABN  
12 325 522 841:

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Chief Executive Officer (CEO)

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*Signature of CEO*

In the presence of:

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*Signature of Witness*