



CONTRACT

for Consulting Services

dated

[•]

between

Saint Lucia National Trust (SLNT)

hereinafter referred to as the “the SLNT”

represented by its Director

having its principal place of business at Pigeon Island National Landmark, Gros Islet, Saint
Lucia

and

[Name of Consulting Firm]

hereinafter referred to as “Consultant”

represented by *[Name or Designation]*

having its principal place of business at *[Address for firm or consultant]*

for

[Consultancy Name]

hereinafter referred to as the “Consultancy/Works”

[Contract#]

Consultancy Services/Works

Insert Consultancy Description from TOR

CONTRACT # (*Procurement Plan #/Year of issue/SLNT_EbA – Brief Consultancy Description*).

This contract is made this [REDACTED] between the SLNT and [REDACTED];

WHEREAS the SLNT, has received financing from the *Caribbean Biodiversity Fund (CBF)*, with funds made available by the International Climate Initiative (IKI) of the German Federal Ministry for Environment, Nature Conservation, and Nuclear Safety through KfW toward the cost of the ‘Increasing the climate change resilience and public awareness of the Pointe Sable Environmental Protection Area and Pigeon Island National Landmark ecosystems’ project;

AND WHEREAS, the Consultant, having presented to SLNT that it has the required professional skills and technical resources and is willing to perform these services on the terms and conditions set forth in this Contract;

NOW THEREFORE THE PARTIES hereby agree as follows:

1. Services

The applicable contractual regulations between the Parties (hereinafter referred to as the “Contract”) consists of the conditions of this consulting Contract along with the following contractual annexes:

- (i) The Consultant shall perform the services specified in Annex A, “Terms of Reference and Scope of Services,” which is made an integral part of this Contract (“the Services”).
- (ii) The Consultant shall provide services listed in Annex B; “Proposal”;
- (iii) The Consultant shall operate within the standards specified in Annex C, “Declaration of Undertaking”

2. Term

The Consultant shall perform the Services upon the date of signing this contract and continuing through [REDACTED] or any other period as may be subsequently agreed by the parties in writing.

3. Payment

A. Ceiling

For Services rendered pursuant to Annex A, total compensation to the Consultant shall be an amount not to exceed **US\$0000.00**. This amount has been established based on the understanding that it includes all of the consultants travel related cost and profits as well as 10% Withholding Tax payable to the Government of Saint Lucia by the consultant.

B. Schedule of Payments

The schedule of payments is specified below:

X% valued at US\$, upon XXXXX;

X% valued at US\$, upon XXX;

X%, valued at US\$, upon XXX

100% Total

C. Payment Conditions

i. Payment shall be made in **United States Dollars**, no later than 30 days following submission by the Consultant of invoices to the *SLNT*;

ii. The *SLNT* pays the Consultant's remuneration to the following account:

Bank: [●]

Account number: [●]

IBAN: [●] *where applicable*

BIC: [●]

iii. The Consultant shall provide the *SLNT* with a receipt for each payment received; and

iv. The *SLNT* shall have the right to suspend payment of instalments at any stage in the event of substantial deviations from the time schedule and/or insufficient performance on the part of the Consultant.

4. Performance Standards

The Consultant undertakes to perform the Services with the highest standards of professional and ethical competence and integrity. The Consultant shall promptly replace any employees assigned under this Contract that the *SLNT* considers unsatisfactory.

5. Liquidated Damages

If the consultant fails to complete any or all of the Services by the date(s) of completion or perform Related Services within the period specified in the Contract, the *SLNT* may, without prejudice to all its other remedies under the Contract, deduct from the Contract Price, as liquidated damages, a sum equivalent to two percent (2%) of the contract price for each week or part thereof of delayed until actual delivery or performance, up to a maximum deduction of ten percent

(10%) of the contract price. Once the maximum is reached, the *SLNT* may terminate the Contract pursuant to Clause 15 of this contract.

6. Confidentiality

The Consultants shall not, during the term of this Contract and within two years after its expiration, disclose any proprietary or confidential information relating to the Services, this Contract or the *SLNT* business or operations without the prior written consent of the *SLNT*.

7. Project Administration

A. *SLNT* Coordinator.

The *SLNT* designates its [Name, Designation] as the coordinator for the contract. The Coordinator will be responsible for the coordination of activities under this Contract, for acceptance and approval of the reports and of other deliverables on behalf of the *SLNT* and for receiving and approving invoices for payment. The *SLNT* designates [Name, Designation] as its alternate representative who may be reached at any time in cases of emergency or crisis if the Coordinator cannot be reached.

B. Contact Person (If it is a firm)

The *Consultant* designates its [Name, Designation] as the contact persons for this contract. The contact persons will be responsible for the coordination of activities under this Contract, on behalf of the [Contact Agency Name]. The [Agency Name] designates [Name, Designation] as its alternate representative who may be reached at any time in cases of emergency or crisis if the contact persons cannot be reached.

C. Deliverables.

The Deliverables listed in Section 6 of the Terms of Reference (Annex A) shall be submitted in the course of the assignment, and will constitute the basis for the payments to be made under paragraph 3 – “Payment”.

8. Ownership of Material and Transfer of Owner

A. Ownership of Material

Any studies, reports or other material, graphic, software or otherwise, prepared by the Consultant for the *SLNT* under the Contract shall belong to and remain the property of the *SLNT*. The Consultant may retain a copy of such documents and software but is not allowed to disclose such information with express written approval of the *SLNT*.

B. Transfer of Owner

The Consultant shall transfer to the SLNT on the date on which any such rights arise, and in any event no later than on the date on which they are acquired:

- i. all transferable rights arising from the Services performed on the basis of this Contract;
- ii. ownership of all studies, reports and associated data and documents that are created in connection with this Contract, or studies, reports and associated data and documents made available to the SLNT as well as software produced or adapted;
- iii. on completion of the Services, legal title to the items of equipment obtained by means of this Contract. Insofar as a transfer of such rights according to (i) is not possible, the Consultant shall irrevocably grant to the Employer unrestricted, transferable, licensable and exclusive rights of use and exploitation that are unlimited with respect to time and place of use. Such transfer shall include the right to adapt any transferred rights. The Consultant shall ensure that any relevant creator of such transferrable rights waives its exercise of any such relevant rights.

The Consultant shall issue all information requested by the SLNT in connection with this Contract, and shall make available free of charge all requested records, documents and information. This obligation shall remain effective after termination of the Contract for a period of 24 months.

9. Consultant not to be Engaged in Certain Activities

The Consultant agrees that, during the term of this Contract and after its termination, the Consultant and any entity affiliated with the Consultant, shall be disqualified from providing goods, works or services (other than the Services and any continuation thereof) for any project resulting from or closely related to the Services.

10. Insurance

The Consultant will be responsible for taking out any appropriate insurance coverage.

11. Conflict of Interest

The Consultant:

- a) Represents and warrants that he/she individually, or as a member of a firm, has not been previously contracted by the *SLNT* to supply goods or execute works or provide services (other than the Services) for a project that has originated these Services or is closely related to them;

- b) Agrees that, during the term of this Contract and after its termination, the Consultant and any entity affiliated with the Consultant, shall be disqualified from providing goods, works or services (other than the Services and any continuation thereof) for any project resulting from or closely related to the Services;
- c) Agrees that, during the term of this Contract not to enter into any other contract for the provision of services that, by its nature, may be in conflict with the Services assigned to the Consultant; and
- d) Represents and warrants that he/she does not have a business or family relationship with a member of the *SLNT* staff or any other person or organisation who are directly or indirectly involved in any part of: the preparation of the TOR of the Contract, (ii) the selection process for such Contract, or (iii) supervision of such Contract, unless the conflict stemming from this relationship has been resolved in an acceptable manner.

12. Corruption and Fraud

and 12.1 When discharging their obligations under this Contract, the Consultant, its representatives and its employees shall comply with all applicable laws, rules, regulations and provisions of the relevant legal systems, including the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

12.2 The Consultant warrants with its signature that the declarations named in Annex C [Declaration of Undertaking] are true and correct and undertakes that it will fulfil the obligations and rules of conduct set out therein in connection with the implementation of this Contract.

12.3 The Consultant undertakes to immediately notify the Employer in detail and in writing if the Consultant is induced by a public official or any other persons to make illegal payments. A public official shall be:

- a) any official or employee of a public authority or an enterprise under the ownership or control of a government;
- b) any person who performs a public function;
- c) any official or staff member of a public international organisation; any candidate for a political office; and
- d) any political party or official of a political party.

12.4 If it is proven that the Consultant has breached Clause 12.1 to 12.3 [Corruption and Fraud] or that the Declaration of Undertaking in Annex C is untrue or will become so, the *SLNT* may – notwithstanding the various punishments or other sanctions to which the Consultant is subject according to the law of Saint Lucia terminate this Contract in writing without observing a period of notice.

13. Indemnity

The Consultant agrees to indemnify the *SLNT* against any loss, damage or claims arising against the *SLNT* as a result of the actions of the Consultant, his/her/its employees or subcontractors engaged by the Consultant under the Contract.

14. Force Majeure

14.1 In the event of Force Majeure, the contractual obligations, insofar as affected by such event, shall be suspended for as long as performance remains impossible due to the Force Majeure. Force majeure means if any event whereby one party to the Contract is prevented to a considerable extent from performing the Services due to unavoidable, unforeseeable circumstances, such as natural disasters, hostage-taking, war, crises, revolution, terrorism and sabotage, that cannot be avoided or rendered harmless and must not be accepted because of its frequency (“Force Majeure”). Insofar as an event originates entirely from the sphere of responsibility of one party to the Contract, this event does not qualify as Force Majeure.

14.2 In the event of Force Majeure, the Consultant shall be entitled to an extension of the Contract equal to the delay caused by such Force Majeure.

14.3 If the performance of the Services is rendered permanently impossible by the Force Majeure, or if the Force Majeure lasts for longer than 180 days, both Parties shall be entitled to terminate the Contract. In this case, the Services performed up to the time of the Force Majeure and all documented necessary expenditure of the Consultant arising from the discontinuation of the Services shall be invoiced on the basis of contractual prices. Neither party shall make any further claims.

14.4 Any and all liability of the Consultant for damages arising due to its absence caused by the Force Majeure is excluded. It is, however, obliged to take all actions open to it to minimise the damages. Conversely, the *SLNT* is not liable for additional costs incurred by the Consultant for the duration of the interruption.

15. Rights Obligations

and The rights and obligations of the Consultant are strictly limited to the terms and conditions of this Agreement. Accordingly, he/she shall not be entitled to any benefit, payments, subsidy, compensation, entitlement or other expenses except as expressly provided in this Agreement.

16. Assignment Sub-contract

and The Consultant shall not assign this Contract or sub-contract any portion of it without the *SLNT*'s prior written consent. If the Consultant intends to assign part of the contractual Services to others, it shall inform the *SLNT* thereof at least 14 days before signing a corresponding sub-contract. If the *SLNT* rejects such an assignment,

the Consultant shall refrain from signing the respective sub-contract. In cases where the Services are sub-contracted, the Consultant's obligations to fulfil the Contract shall remain unaffected. The Consultant shall ensure that the sub-contractor fulfils all requirements of this Contract, in particular also in relation to corruption avoidance and confidentiality.

17. Termination of Contract

Without constituting a breach of contract by either party, the present contract may be terminated for the following reasons: (a) agreement between both parties; or (b) force majeure that may disable the fulfilment of the obligations by of the Parties, if written notice is sent fifteen days beforehand. In this event, the relationship will be settled and the Consultant paid for services rendered up to the date of submission of the written notification and justification.

18. Law Governing Contract and Language

The Contract shall be governed by the laws of *Saint Lucia*, and the language of the Contract shall be in English.

19. Dispute Resolution

Any dispute arising out of the Contract, which cannot be amicably settled between the parties, shall be referred to mediation and in the event the mediation process does not settle the dispute then it shall be referred to arbitration in accordance with the laws of Saint Lucia.

IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with the laws of Saint Lucia on the day, month and year indicated above.

For and behalf of the *Saint Lucia National Trust*

For: *The Saint Lucia National Trust*

For: *[Agency/Consultant]*

Name:

Name:

Title: Director

Title:

Signature:

Signature:

Date: _____

Date: _____

Witness: _____

Witness: _____

Contract #

ANNEX A

Terms of Reference

ANNEX B

Consultant's Proposal

ANNEX C

Declaration of Undertaking

ANNEX C

Declaration of Undertaking

Reference name of the Application/Offer/Contract: ("Contract")

To: ("Project Executing Agency")¹

1. We recognise and accept that KfW only finances projects of the Project Executing Agency ("PEA")¹ subject to its own conditions which are set out in the Funding Agreement it has entered into with the PEA. As a matter of consequence, no legal relationship exists between KfW and our company, our Joint Venture or our Subcontractors under the Contract. The PEA retains exclusive responsibility for the preparation and implementation of the Tender Process and the performance of the Contract.
2. We hereby certify that neither we nor any of our board members or legal representatives nor any other member of our Joint Venture including Subcontractors under the Contract are in any of the following situations:
 - 2.1) being bankrupt, wound up or ceasing our activities, having our activities administered by courts, having entered into receivership, reorganisation or being in any analogous situation;
 - 2.2) convicted by a final judgement or a final administrative decision or subject to financial sanctions by the United Nations, the European Union or Germany for involvement in a criminal organisation, money laundering, terrorist-related offences, child labour or trafficking in human beings; this criterion of exclusion is also applicable to legal Persons, whose majority of shares are held or factually controlled by natural or legal Persons which themselves are subject to such convictions or sanctions;
 - 2.3) having been convicted by a final court decision or a final administrative decision by a court, the European Union, national authorities in the Partner Country or in Germany for Sanctionable Practice in connection with a Tender Process or the performance of a Contract or for an irregularity affecting the EU's financial interests (*in the event of such a conviction, the Applicant or Bidder shall attach to this Declaration of Undertaking supporting information showing that this conviction is not relevant in the context of this Contract and that adequate compliance measures have been taken in reaction*);
 - 2.4) having been subject within the past five years to a Contract termination fully settled against us for significant or persistent failure to comply with our contractual obligations during such Contract performance, unless this termination was challenged and dispute resolution is still pending or has not confirmed a full settlement against us;

¹ Refers to the purchaser, the employer, the client, as the case may be, for the procurement of Consulting Services, Works, Plant, Goods or Non-Consulting Services.

- 2.5) not having fulfilled applicable fiscal obligations regarding payments of taxes either in the country where we are constituted or the PEA's country;
 - 2.6) being subject to an exclusion decision of the World Bank or any other multilateral development bank and being listed on the website <http://www.worldbank.org/debarr> or respectively on the relevant list of any other multilateral development bank (*in the event of such exclusion, the Applicant or Bidder shall attach to this Declaration of Undertaking supporting information showing that this exclusion is not relevant in the context of this Contract and that adequate compliance measures have been taken in reaction*); or
 - 2.7) being guilty of misrepresentation in supplying the information required as a condition of participation in the Tender.
3. We hereby certify that neither we, nor any of the members of our Joint Venture or any of our Subcontractors under the Contract are in any of the following situations of conflict of interest:
- 3.1) being an affiliate controlled by the PEA or a shareholder controlling the PEA, unless the stemming conflict of interest has been brought to the attention of KfW and resolved to its satisfaction;
 - 3.2) having a business or family relationship with a PEA's staff involved in the Tender Process or the supervision of the resulting Contract, unless the stemming conflict of interest has been brought to the attention of KfW and resolved to its satisfaction;
 - 3.3) being controlled by or controlling another Applicant or Bidder, or being under common control with another Applicant or Bidder, or receiving from or granting subsidies directly or indirectly to another Applicant or Bidder, having the same legal representative as another Applicant or Bidder, maintaining direct or indirect contacts with another Applicant or Bidder which allows us to have or give access to information contained in the respective Applications or Offers, influencing them or influencing decisions of the PEA;
 - 3.4) being engaged in a Consulting Services activity, which, by its nature, may be in conflict with the assignments that we would carry out for the PEA;
 - 3.5) in the case of procurement of Works, Plant or Goods:
 - i. having prepared or having been associated with a Person who prepared specifications, drawings, calculations and other documentation to be used in the Tender Process of this Contract;
 - ii. having been recruited (or being proposed to be recruited) ourselves or any of our affiliates, to carry out works supervision or inspection for this Contract;
4. If we are a state-owned entity, and compete in a Tender Process, we certify that we have legal and financial autonomy and that we operate under commercial laws and regulations.
5. We undertake to bring to the attention of the PEA, which will inform KfW, any change in situation with regard to points 2 to 4 here above.

6. In the context of the Tender Process and performance of the corresponding Contract:
 - 6.1) neither we nor any of the members of our Joint Venture nor any of our Subcontractors under the Contract have engaged or will engage in any Sanctionable Practice during the Tender Process and in the case of being awarded a Contract will engage in any Sanctionable Practice during the performance of the Contract;
 - 6.2) neither we nor any of the members of our Joint Venture or any of our Subcontractors under the Contract shall acquire or supply any equipment nor operate in any sectors under an embargo of the United Nations, the European Union or Germany; and
 - 6.3) we commit ourselves to complying with and ensuring that our Subcontractors and major suppliers under the Contract comply with international environmental and labour standards, consistent with laws and regulations applicable in the country of implementation of the Contract and the fundamental conventions of the International Labour Organisation² (ILO) and international environmental treaties. Moreover, we shall implement environmental and social risks mitigation measures when specified in the relevant environmental and social management plans or other similar documents provided by the PEA and, in any case, implement measures to prevent sexual exploitation and abuse and gender-based violence.
7. In the case of being awarded a Contract, we, as well as all members of our Joint Venture partners and Subcontractors under the Contract will, (i) upon request, provide information relating to the Tender Process and the performance of the Contract and (ii) permit the PEA and KfW or an agent appointed by either of them, and in the case of financing by the European Union also to European institutions having competence under European Union law, to inspect the respective accounts, records and documents, to permit on-the-spot checks and to ensure access to sites and the respective project.
8. In the case of being awarded a Contract, we, as well as all our Joint Venture³ partners and Subcontractors under the Contract undertake to preserve above mentioned records and documents in accordance with applicable law, but in any case for at least six years from the date of fulfilment or termination of the Contract. Our financial transactions and financial statements shall be subject to auditing procedures in accordance with applicable law. Furthermore, we accept that our data (including personal data) generated in connection with the preparation and implementation of the Tender Process and the performance of the Contract are stored and processed according to the applicable law by the PEA and KfW.

²In case ILO conventions have not been fully ratified or implemented in the Employer's country, the Applicant/Bidder/Contractor shall, to the satisfaction of the Employer and KfW, propose and implement appropriate measures in the spirit of the said ILO conventions with respect to a) workers grievances on working conditions and terms of employment, b) child labour, c) forced labour, d) worker's organisations and e) non-discrimination.

³In the case of a JV, insert the name of the JV. The person who will sign the application, bid or proposal on behalf of the Applicant/Bidder shall attach a power of attorney from the Applicant/Bidder.

Name: _____ In the capacity of: _____

Duly empowered to sign in the name and on behalf of: _____

Signature:

Dated: