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Public Finances (Management) Act 1995

APPROVAL AND ESTABLISHMENT OF A TRUST ACCOUNT

I, HON. JAMES MARAPE, MP, Minister for Finance, pursuant to Section 15 of the *Public Finance (Management) Act, 1995*:

Approval & Establishment

1. Approve the establishment of a Trust Account to be known by the name stated in Point 1 of the attached Trust Account Schedule and hereby established the Trust Account by the execution of this Trust Instrument, which has been approved by the State Solicitor, that specifies the operational terms and conditions of the Trust Account.
2. This Trust account shall be controlled by the controlling public or statutory body of the Trust Account stated in Point 2 of the attached Trust Account Schedule.

Trust Account Purpose

3. The purpose of the Trust Account shall be to receive, hold and expend moneys on trust in order to meet the purposes stated in Point 3 of the attached Trust Account Schedule.

Payments into Trust Account

4. Subject to the following sub-Clauses, pursuant to Section 16 of the *Public Finance (Management) Act 1995* (as amended), the only moneys that shall be paid to the credit of the Trust Account are:
 - (a) public moneys appropriated for the purpose of this Trust Account; and
 - (b) moneys received from any dealing with any articles purchased or produced, or for work paid for, with moneys standing to the credit of this Trust Account; and
 - (c) moneys paid by any person for the purposes of this Trust Account; and
 - (d) public moneys appropriated as a Government contribution to the project which is partly funded by an international agency, whether by way of loan or grant.
- 4.1 Transfers of funds into the Trust Account contrary to Clause 4 immediately revokes this Trust Account and all funds standing to the credit of the Trust Account shall be immediately transferred to the Consolidated Revenue Fund by the Finance Secretary.

Approval and Establishment of a Trust Account—continued

- 4.2 Transfers of funds from the Consolidated Revenue Fund to this Trust Account are prohibited unless a special transfer is authorized by the Appropriation Act.
5. Public money, within the meaning of the *Public Finance (Management) Act 1995* (as amended), other than moneys referred to in Clause 4(a)-(d), shall not be paid into this Trust Account. Specifically, all:
- (a) taxes, fees, levies, royalties or other charges;
 - (b) receipts from the sale of bonds, debentures, shares, securities, term-deposits or any other investments;
 - (c) proceeds from the sale or lease of any real or personal property;
 - (d) grants, loans, donations or gifts other than moneys paid by any person for the express purposes of this Trust Account; or shall be paid only to a bank account to the credit of the Consolidated Revenue Fund and to no other bank account.
- 5.1 Payment of public money or transfer of funds into the Trust Account, other than moneys referred to in Clause 4(a)-(d), contrary to Clause 5 immediately revokes this Trust Account and all funds standing to the credit of the Trust Account shall be immediately transferred to the Consolidated Revenue Fund by the Finance Secretary.

Payments out of Trust Account

6. Money shall be paid out of this Trust Account only for the purpose of this Trust Account or as authorized by law. Salaries and wages shall not be paid out of this Trust Account unless they are specifically authorized by a project document annexed to this Trust Instrument and with the express written authorization and approval of the Finance Secretary.
- 6.1 Payment of funds out of the Trust Account contrary to Clause 6 immediately revokes this Trust Account and all funds standing to the credit of the Trust Account shall be immediately transferred to the Consolidated Revenue Fund by the Finance Secretary.

Bank Accounts

7. A bank account shall be opened with any approved bank, within the meaning of the *Public Finance (Management) Act 1995*, to be named or entitled with the name stated in Point 1 of the attached Trust Account Schedule.
8. With the written approval of the Finance Secretary, subsidiary bank accounts for use in the provinces of Papua New Guinea may be opened with any approved bank, within the meaning of the *Public Finance (Management) Act 1995*, to be named or entitled with the name stated in Point 1 of the attached Trust Account Schedule and the words — **Subsidiary Bank Account and the name of the Province (if applicable)**.
9. With the written approval of the Finance Secretary, if an international agreement requires, a bank account may be opened to separately hold donor funds with any approved bank, within the meaning of the *Public Finance (Management) Act 1995*, to be named or entitled with the name stated in Point 1 of the attached Trust Account Schedule and the words — **Donor Funds Accounts**.
10. Subject to the expiry provisions, two (2) signatories are required on all cheques and transfers from a bank account of a Trust Account, one is a mandatory signatory and the other is a countersigning signatory as stated in Point 4 of the attached Trust Account Schedule.

Records, Reports etc

11. The Departmental Head of the controlling public or statutory body of this Trust Account shall —
- (a) maintain all records relating to the operations of this Trust Account, as required by the *Public Finance (Management) Act 1995*, using the financial management, accounting and information systems as may be directed by the Finance Secretary by a Finance Instruction or otherwise;

Approval and Establishment of a Trust Account—continued

- (b) deliver, as required by the *Public Finance (Management) Act 1995*, to the Secretary of Finance:
- (i) within seven (7) days from the end of each month bank statements and reconciliations for this Trust Account along with a statement of transactions against this Trust Account.
 - (ii) annual estimates of receipts and expenditure for this Trust Account, as and when directed by the Finance Secretary by a Finance Instruction or otherwise; and
 - (iii) within seven (7) days from the end of the fiscal year, provide a statement of the account for the preceding year.

11.1 Failure to comply with Clause 11 immediately revokes this Trust Account and all funds standing to the credit of the Trust Account shall be immediately transferred to the Consolidated Revenue Fund by the Finance Secretary.

Expiration

12. This Trust Account expires;
- (a) on the date stated in Point 5 of the attached Trust Account Schedule and shall be no more than 3 years from the date of the execution of this Trust Instrument; or
 - (b) in the case of a Trust Account established for the purpose of holding donor funds, the Trust Account expires in accordance with the terms of the loan or grant agreement between the donor and the Independent State of Papua New Guinea.
13. On reaching the expiration date, unless extended prior to the expiration by another Trust Instrument, the balance standing to the credit of the bank account of the Trust Account shall be paid:
- (a) to the Consolidated Revenue Fund, after all liabilities relating to the Trust Account have been settled; or
 - (b) in the case of a Trust Account established for the purpose of holding donor funds, the Trust Account expires in accordance with the terms of the loan or grant agreement between the donor and the Independent State of Papua New Guinea.

TRUST ACCOUNT SCHEDULE		
NO.	ITEM	DETAILS
1	<i>Name of the Trust Account</i>	Beche-De-Mer (BDM) Bond Fees Trust Account
2	Controlling public or statutory body of the Trust Account	National Fisheries Authority (NFA)
3	Purposes of the Trust Account (e.g implement and otherwise undertake the activities of and otherwise facilitate the implementation of the ABC Project that is defined in the ABC Project Document dated 13th December, 2017 and attached as Annexure A).	The purpose of the account is to hold funds known as Beche-de-mer Compliance bond fees paid to NFA and held by NFA in lieu of good performance by licensed export companies. These funds are returned to the companies at the end of the fishing season if the licensed export operator is seen to be compliant to the conditions of the license and provisions of the management plan. In the event a licensed exporter contravenes/breach conditions of license or management plan, part of the bond or whole will be forfeited based on the outcomes of investigations.
4	Signatories	Two signatories are required on all cheques and transfers from the account and these signatories shall be:
4.1	Mandatory 1	Secretary, Department of Finance.
	Mandatory 2	Deputy Secretary — Support Service, Department of Finance.
4.2	Countersigning 1	Managing Director, National Fisheries Authority.
	Countersigning 2	Chief Financial Officer, National Fisheries Authority.
5	Expiry Date	31st of December, 2020.

Dated this 19th day of February, 2019.

Hon. J. MARAPE, MP,
Minister for Finance & Rural Development.