

Enter Program Name

Sub Contract

Insert Activity

Parties

Abt Associates Pty Ltd ACN 091 591 294

and

Insert Entity Insert Registration # or equivalent

Reference No.

Contract Reference No.



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Parties

Abt Associates Pty Ltd ACN 091 591 294

Address	Level 2, 5 Gardner Close, Milton Queensland 4064
Contact	Program Contact Person
Telephone	Program Contact Person
Email	Program Email
Short name	Company

Insert Sub-contractor's correct name & Entity Number

Address	Enter Address
Contact	Enter Contractor contact person
Telephone	Enter #
Email	Enter #
Short name	Contractor

Key Details

Program	Program
Client	Department of Foreign Affairs and Trade (DFAT)
Partner Country	Partner Country
Start Date	Insert Date
End Date	Insert Date

Background

- 1 The Company is a company incorporated in Australia that carries on the business of project management and consulting both in Australia and internationally.
- 2 The Company has been contracted by the Client to deliver the Program, and now wishes to sub-contract the Contractor to provide Services in relation to the Program.
- 3 This document sets out the terms and conditions on which the Contractor will provide the Services.

Operative provisions

1 Defined terms and interpretation

In this document, capitalised terms have a defined meaning, as set out in Schedule A.

The rules of interpretation for this document are set out in clause 19.15.

2 Conditions Precedent to Engagement

Not used

3 Parties' relationship

3.1 Relationship between parties

Except where this document expressly states otherwise, this document does not create any relationship between the parties under which a party:

- (a) is liable generally for the acts or omissions of another party; or
- (b) may share profits.

3.2 Authority of parties

Except where this document expressly states otherwise, a party:

- (a) may not hold itself out as a partner of, or principal or agent or trustee of another party; and
- (b) does not have authority to act for, or to create or assume any responsibility or obligation on behalf of another party.

4 Term

The Engagement commences on the Start Date and continues until the earlier of:

- (a) the End Date; and
- (b) the date that this document is terminated in accordance with clause 15.

5 Provision of Services

5.1 Contractor to provide Services

The Contractor will provide the Services to the Company for the Term in accordance with this document.

Notwithstanding any other provision of this document, the obligations of the Contractor under this document are personal to the Contractor, and the Contractor must not subcontract performance of the Services, or any part of them, to a third party except with the prior written consent of the Company.

5.2 Service standards

The Contractor must perform the Services at a standard that may reasonably be expected of a competent, experienced and professional person in a like position to that of the Contractor; and in a manner that will, as far as practicable, facilitate co-operation and effective working relationships between personnel of the Client, the Company, the Contractor and relevant stakeholders in the Program.

5.3 Compliance with directions, Laws and policies

During the Term, the Contractor must comply with:

- (a) except as expressly otherwise provided in this document, all of the Company's obligations under the Head Contract, to the extent that they relate to the provision of the Services, as notified to the Contractor from time to time;
- (b) all lawful directions and requests of the Company in connection with the performance of the Services;
- (c) all policies and procedures of the Company and the Client as notified to the Contractor from time to time, including the ;
- (d) the Company's Safeguarding Code of Conduct for Partners; and
- (e) all applicable Laws.

If requested by the Company, the Contractor must certify in writing, and provide any relevant supporting evidence, that it has complied with its obligations under this clause.

Except as expressly provided in this document, the policies and procedures of the Company and the Client do not form part of this document. To the extent that the Contractor is required to do, or to refrain from doing, something in order to comply with a policy or procedure of the Company or the Client, it is a reasonable direction from the Company with which the Contractor must comply.

The Contractor must fully and truthfully answer any questions asked by the Company or its nominated Representatives, the Client or the Commonwealth Ombudsman regarding the Engagement and the Contractor's compliance with this document. This obligation continues following expiry of the Term.

5.4 Performance Assessment

The Contractor acknowledges and agrees that the Company or the Client may issue in relation to this Contract a Subcontractor Performance Assessment for the Contractor and Adviser Performance Assessments for any Specified Personnel. The performance assessments will be in accordance with the Client's requirements for Subcontractor/Adviser Performance Assessments, and the Contractor agrees to sign and return the Subcontractor Performance Assessment within 15 days of receipt and will ensure that any Adviser Performance Assessments for Specified Personnel are signed and returned within 15 days of receipt.

5.5 Non-Exclusivity and Volume

The Contractor acknowledges and agrees that nothing in this subcontract shall operate to constitute the Contractor an exclusive provider of the Services to the Company or the Client.

Nor shall the Company have an obligation to acquire any minimum volume of services from the Contractor.

6 Fees

6.1 Fees

In consideration of the Contractor providing the Services to the Company, the Company will pay the Contractor the Fees in accordance with this clause 6, and Schedule C.

6.2 Method and timing of payments

The Company will pay all amounts owing to the Contractor in the currency nominated in Schedule C, and if no currency is nominated in Schedule C, in Australian dollars, by deposit into a nominated bank account in the name of the Contractor.

The Contractor must invoice the Company in accordance with clause 9, and at the times set out in Schedule C unless otherwise agreed between the parties.

The Fees will be paid within 30 calendar days after the date the Company receives satisfactory delivery of goods or services, and accepts a properly rendered tax invoice from the Contractor, unless otherwise agreed between the parties.

Notwithstanding any other provision of this document, the Company is not required to pay any amount that is disputed in good faith by the Company until the dispute is resolved.

7 Subcontractors

7.1 No subcontracting without Company approval

The Contractor agrees that:

- (a) it will not subcontract the performance of any part of the Services without the prior approval in writing of the Company; and
- (b) the subcontractors, if any, will perform work in relation to the Services in accordance with this contract and are approved by the Company to do so.

The Company may impose any terms and conditions it considers appropriate when giving its approval under clause 7.1(a) above.

Where an approved subcontractor is unable to perform the work, the Contractor agrees to notify the Company immediately. In this case the Company may request the Contractor to secure a replacement subcontractor acceptable to the Company at no additional cost and at the earliest opportunity. If the Contractor does not comply with any such request the Company may terminate this Contract in accordance with the provisions of clause 15.3.

7.2 Contractor's obligations in relation to subcontractors

In respect of all approved subcontractors the Contractor must ensure that:

- (a) the subcontract facilitates compliance by the Contractor with its obligations under this Contract;

- (b) the subcontract will not conflict with or detract from the rights and entitlements of the Company under this Contract;
- (c) the other party to the subcontract, has the necessary relevant expertise and the appropriate types and amounts of insurance to perform work in relation to the Services;
- (d) the other party to the subcontract has consented to:
 - (i) the Contractor providing information about the other party and the subcontract to the Company, the Client and other Government Agencies at any time; and
 - (ii) the public disclosure of its name and the nature of the Services that it is subcontracted to perform;
- (e) the other party to the subcontract assumes all of the equivalent obligations (including under the Law and development policies), and gives all the warranties the Contractor gives under this Contract, to the extent they are relevant to the services the other party is subcontracted to perform. These include, but are not limited to, those terms relating to Fair Work Principles (if applicable), payment of fees, subcontracting, intellectual property, audit and access, privacy, confidentiality, warranties and indemnities, disclosure and termination and in particular that the Contractor has or will secure for itself a right to terminate the subcontract on terms no less favourable than those accorded to the Company under clause 15, in the event of this Contract being terminated;
- (f) the other party to the subcontract acknowledges that it may be considered a 'Commonwealth service provider' for the purposes of the *Ombudsman Act 1976 (Cth)* and subject to investigation by the Ombudsman under that Act and that the Company will not be liable for the cost of any such investigation by the Ombudsman in connection with the subject matter of the subcontract or the subject matter of this Contract;
- (g) the other party to the subcontract is prohibited from further subcontracting the Services without the prior written approval of the Company; and
- (h) if requested, the Contractor will promptly provide a copy of the relevant subcontract to the Company.

7.3 Contractor remains liable

If the Contractor subcontracts its performance of any part of this Contract, the Contractor will remain liable for the acts, defaults and omissions of the subcontractor as if they were the Contractor's acts, defaults or omissions.

7.4 Specified Personnel and other Contractor Personnel

The Contractor agrees that the Services will be provided by the Specified Personnel listed in Schedule D.

Where Specified Personnel are unable to perform the Services, the Contractor must notify the Company immediately.

The Company may, at its absolute discretion and acting reasonably, request the Contractor to remove Contractor Personnel (including Specified Personnel) from work in relation to the Services. The Company may request the Contractor to provide replacement personnel

acceptable to the Company at no additional cost and at the earliest opportunity. If the Contractor does not comply with any such request, the Company may terminate this Contract in accordance with the provisions of clause 15.

When engaging Contractor Personnel for work in a Partner Country, the Contractor will use its best endeavours to ensure they are certified as fit and healthy by a legally qualified medical practitioner to work in the Partner Country, and have received the necessary medical advice, including that on vaccinations and other preventative medical assistance allowing them to undertake work in-country in a safe manner.

8 General obligations of Contractor

8.1 Remedy of breaches

Without limiting its other obligations under this document, the Contractor must remedy at its own cost any failure to comply with any of the Contractor's obligations under this document or in connection with the Engagement, promptly upon becoming aware of the failure.

8.2 No representation of affiliation with Client

The Contractor must not represent itself as being an employee, agent, or partner of, or associate to, the Client.

8.3 Authorisations and compliance with Laws

The Contractor must:

- (a) obtain, comply with and do all that is necessary to maintain in full force and effect any Authorisation required to enable it to perform its obligations under this document and must provide the Company on request with certified copies of any Authorisation;
- (b) comply in all material respects with all Laws to which it is subject; and
- (c) notify the Company, in accordance with clause 8.16, of any material breach by the Contractor of any Law to which it is subject.

8.4 Commonwealth service provider obligations

The Contractor acknowledges that it may be a 'Commonwealth Service Provider' within the meaning of section 3BA of the Ombudsman Act 1976 (Cth).

The Contractor must use its best endeavours, in undertaking the Services, not to engage in conduct that:

- (a) would, if the Contractor were an officer of the Client, amount to a breach of duty or to misconduct; or
- (b) should be brought to the attention of the principal officer of the Client.

The Contractor must fully cooperate with the Commonwealth Ombudsman (and any delegate) should an investigation be undertaken in relation to the conduct of the Company or the Contractor, including reporting the incident to the Company in accordance with clause 8.16, providing all documentation required by the investigator, making any employees of the Contractor available to assist the investigator and allowing the investigator, at any reasonable

time of day, to enter a place occupied by the Contractor and carry on the investigation in that place.

If the Commonwealth Ombudsman brings evidence to the notice of the Client concerning the conduct of the Contractor, or an employee of the Contractor, the Contractor must at its own cost, take whatever remedial action is required by the Client or the Commonwealth Ombudsman to rectify the situation.

8.5 Conflicts of interest

The Contractor must not do, or omit to do, any thing, or allow any state of affairs to subsist, that gives rise (or that could reasonably be expected to give rise) to a conflict between:

- (a) the Contractor's duties and responsibilities to the Company (and the Client) in connection with the Engagement; and
 - (b) the Contractor's own interests or the Contractor's obligations to any other person,
- (a **Conflict of Interest**), unless the Contractor has obtained the prior written consent of the Company.

If any actual or potential Conflict of Interest arises the Contractor must report the incident to the Company in accordance with clause 8.16, and must comply with all reasonable directions of the Company regarding handling of the matter.

Without limiting the forgoing, the Contractor must not, in performing the Services, enter into any transaction with any person except on arm's length terms or otherwise with the prior written approval of the Company.

8.6 Anti-corruption

The Contractor undertakes that neither it nor any Contractor Personnel will make or cause to be made, receive or seek to receive, whether directly or indirectly, any offer, gift or payment, consideration or benefit of any kind, if doing so would or could be construed as an illegal or corrupt act under the laws of the Commonwealth, the Partner Country or any other place.

The Contractor undertakes to not bribe public officials of any jurisdiction and will at all times comply with all applicable anti-corruption laws of the Commonwealth, the Partner Country or any other place.

If any actual or suspected breach of this clause occurs the Contractor must report the incident to the Company in accordance with clause 8.16.

The Company will be entitled to immediately terminate the Engagement if the Contractor breaches this clause.

8.7 Unregulated (cash) economy

It is Australian Government policy to increase the integrity of Commonwealth procurement, as described in the Unregulated (Cash) Economy Policy. The Client requires that the Company comply with the Unregulated (Cash) Economy Policy as though the Company is the Client.

If the Fees payable under this document are estimated to exceed four million Australia dollars (A\$4,000,000) (GST inclusive), the Contractor represents and warrants to the Company that:

- (a) if the Contractor has a record with the Australian Taxation Office of at least four (4) years, the Contractor holds a valid and satisfactory Statement of Tax Record that was valid at the time of entry into this document and has provided a copy of this Statement of Tax Record to the Company;
- (b) if the Contractor does not have a record with the Australian Taxation Office or has a record of less than four (4) years, the Contractor:
 - (i) has provided a statement to the Australian Taxation Office in the terms contemplated by Part 8(a) of the Unregulated (Cash) Economy Policy and has provided a copy of this Part 8(a) Statement to the Company;
 - (ii) will receive a valid and satisfactory Statement of Tax Record from the Australian Taxation Office and will provide a copy of this Statement of Tax Record to the Company as soon as possible after it has been issued by the Australian Taxation Office; or
- (c) the Company has notified the Contractor in writing that a Statement of Tax Record is not required from the Contractor on the basis that:
 - (i) the Client has notified the Company in writing that a Statement of Tax Record is not required in respect of the Contractor; or
 - (ii) the Company reasonably considers that the procurement that led to this document would not have been subject to the Unregulated (Cash) Economy Policy if it were undertaken by the Client rather than the Company.

If the Contractor is a partnership and clauses 8.7(a) or 8.7(b) above apply, the Contractor represents and warrants to the Company that:

- (d) each partner in the partnership holds or will obtain a valid and satisfactory Statement of Tax Record and has or will provide a copy of this Statement to the Company in accordance with clauses 8.7(a) or 8.7(b) above as though each partner was the Contractor; and
- (e) each new partner that joins the partnership has or will obtain a valid and satisfactory Statement of Tax Record and has or will provide a copy of this Statement to the Company in accordance with clauses 8.7(a) or 8.7(b) above as though the new partner was the Contractor.

Unregulated (Cash) Economy Policy means *the Australian Government policy to increase the integrity of government procurement, issued and maintained by the Commonwealth of Australia Treasury Department and currently available at www.treasury.gov.au/publication/p2019-t369466.*

satisfactory means meets the conditions set out in Part 6(b) of the *Unregulated (Cash) Economy Policy* or, if the circumstances in Part 6(c) of the *Unregulated (Cash) Economy Policy* apply, the conditions set out in Part 8(b) of the *Unregulated (Cash) Economy Policy*.

Statement of Tax Record has the meaning given in the *Unregulated (Cash) Economy Policy*.

8.8 Fraud

For the purposes of this clause, 'fraudulent activity' or 'fraud' means dishonestly obtaining a benefit, or causing a loss, by deception or other means, and includes alleged, attempted, suspected, or detected fraud.

This clause applies to any fraud or fraudulent activity which relates to or is connected with the Project or the Engagement.

The Contractor must not engage in any fraudulent activity. If the Contractor becomes aware of any actual or suspected fraudulent activity by any person in connection with the Program or the Services the Contractor must report the incident to the Company in accordance with clause 8.16. The Contractor must ensure that all of its Representatives involved in providing the Services are aware of its obligations under this clause.

Without limiting any other clause of this document, the Contractor must, at its cost, do all things required by the Company to assist the Company or the Client to:

- (a) investigate any actual or suspected fraudulent activity;
- (b) implement remedial or preventative measures;
- (c) recover any funds or assets of the Company or the Client that have been misappropriated as a consequence of fraudulent activity;
- (d) report any suspected incidence of fraud to appropriate law enforcement authorities; and
- (e) have any person who is suspected of having engaged in fraudulent activity prosecuted or to take legal action against any such person.

The Contractors must provide such reports regarding its compliance with this clause as the Company may from time to time require.

If either the Company or the Client reasonably forms the view, following any investigation undertaken by either of them into any actual or suspected fraud, that the Contractor or any Representative of the Contractor has acted fraudulently, the Contractor must:

- (f) where the Company or the Client determines that funds have been misappropriated or otherwise lost, repay the Company or the Client (as the Company directs) the total amount of any misappropriated or lost funds as determined by the Company or the Client;
- (g) where the Company or the Client determines that assets have been misappropriated or lost:
 - (i) return the assets to the Company or the Client (as the Company directs); or
 - (ii) where the original assets cannot be recovered or are damaged beyond reasonable use, pay to the Company or the Client (as the Company directs) the full value of any misappropriated or lost assets or replace the assets with assets of equal quality; and
- (h) pay to the Company or the Client (as the Company directs), on demand, any Loss suffered or incurred by the Company and the Client as a consequence of the Contractor's breach of its obligations under this clause.

The Company will be entitled to immediately terminate the Engagement if the Contractor breaches this clause.

The obligations of the Contractor under this clause survive termination of this document.

8.9 Safeguarding

(a) General

The Contractor must comply with, and ensure that the Contractor's Personnel comply with, DFAT's Preventing Sexual Exploitation Abuse and Harassment Policy, DFAT's Child Protection Policy and respective minimum standards and agrees to report on such compliance as and when required by the Company. The Contractor will take all reasonable measures to address non-compliance including of Contractor's personnel and downstream partners. The Contractor will take prompt action to address any such behaviour leading to non-compliance with any of DFAT's minimum standards. In the event of a sexual exploitation, abuse, harassment or child related incident, the Contractor will take prompt action to address, including reporting to appropriate national authorities as required, and, to the extent that it relates to the activities that are the subject of this Contract, report immediately to the Company in accordance with clause 8.16.

(b) Transactional Sex and Fraternisation

The Company operates zero tolerance for Transactional Sex and Fraternisation. The Contractor and its Personnel are responsible for the preventing and detecting of Transactional Sex and Fraternisation. The Contractor and its Personnel are prohibited from engaging in either Transactional Sex or Fraternisation while performing the services under this Contract. The Contractor and its Personnel must report any actual or suspected incident of Transactional Sex or Fraternisation, in accordance with clause 8.16.

The Company reserves the right to terminate this Contract, in accordance with clause 15, for any breach of the Contractor's obligations under this clause 8.9.

8.10 Obligations in relation to employees

The Contractor must:

- (a) ensure that its employees fully comply with any applicable obligations of the Contractor under this document; and
- (b) ensure that its employees fully comply with the Company's Safeguarding Code of Conduct for Partners (as included in Schedule F); and
- (c) comply with all relevant requirements of the Fair Work Principles, as set out in the Fair Work Principles User Guide (as published by the Commonwealth Department of Education, Employment and Workplace Relations), including by:
 - (i) complying with all applicable workplace relations, occupational health and safety and workers' compensation laws; and
 - (ii) participating in all compliance activities associated with its legal obligations, including those arising under the Fair Work Principles. Compliance activities include, but are not limited to, responding to requests for information and/or audits undertaken by the Commonwealth, its nominees and/or relevant Government Agencies;

- (d) inform the Company of any adverse court or tribunal decision regarding a breach by the Contractor of any applicable workplace relations, occupational health and safety and workers' compensation laws during the Term and any remedial action the Contractor has taken, or proposes to take, as a result of that decision; and
- (e) provide the Company with any information the Company reasonably requires to confirm that the Contractor is complying with the Fair Work Principles.

8.11 Work Health & Safety

- (a) The Contractor must perform its, and must ensure that all Contractor Personnel, perform their, obligations under this Contract in strict compliance with the *Work Health and Safety Act 2011 (Cth)* ('WHS Act') and are able to participate in:
 - (i) any necessary inspections of work in progress;
 - (ii) any necessary consultation with the Company regarding implementation of the WHS Act provisions; and
 - (iii) tests and evaluations of the Goods and Services.
- (b) The Contractor agrees, when using the Company's or the Client's premises or facilities, to comply with all reasonable directions and procedures relating to work health and safety and security in effect at those premises or in regard to those facilities, as notified by the Company or the Client or as might be inferred from the use to which the premises or facilities are being put.
- (c) Without limiting any other provision of this Contract, the Contractor agrees to, on request, give all reasonable assistance to the Company, by way of provision of information and documents, to assist the Company and its officers as defined in the WHS Act to comply with the duties imposed on them under the WHS Act.
- (d) The Contractor acknowledges that the Company may direct it to take specified measures in connection with the Contractor's work under this Contract that the Company considers reasonably necessary to deal with an event or circumstance that has or is likely to have, an adverse effect on the health or safety of persons. The Contractor must comply with the direction at its own cost.

8.12 Counter-terrorism

The Contractor must use its best endeavours to ensure that funds provided in relation to the Engagement are not used directly or indirectly to support or resource organisations or individuals denoted by the Commonwealth of Australia or the Partner Country as being associated with terrorism. If the Contractor reasonably suspects or discovers that this has occurred or of any link whatsoever with any organisation or individual associated with terrorism then the Contractor must report the incident to the Company in accordance with clause 8.16.

The Contractor confirms and verifies that neither itself nor any of its associates, agents, personnel, subcontractors or sub-consultants involved in the delivery of Services is included on the Australian Government, Attorney General's Department (AGD) or the Client's terrorism lists. The Contractor must notify the Company immediately if a listing on either of the mentioned terrorism lists has occurred, and or, if the Contractor has grounds to believe that a such listing may have occurred or could potentially occur. The Company has the right to terminate this Contract immediately if the Contractor is in breach of this clause 8.12.

8.13 World Bank Listings

The Contractor must ensure that neither itself nor any of its associates, agents, personnel, sub-contractors or sub-consultants involved in the delivery of Services are

- (a) listed on the “World Bank Listing of Ineligible Firms & Individuals” accessible at <http://web.worldbank.org/> (“World Bank List”) or other list similar to the World Bank List maintained by a donor of development funding other than the World Bank (“Relevant List”) or are subject to any proceedings or an informal process which could lead to listing on a World Bank List or other Relevant List;
- (b) temporarily suspended from tendering for World Bank contracts by the World Bank, pending the outcome of a sanctions process;
- (c) temporarily suspended from tendering by a donor of development funding other than the World Bank; or
- (d) the subject of an investigation (whether formal or informal) by the World Bank or another donor of development funding.

If any of the events listed in letter (a) – (d) above have occurred or if the Contractor has reasonable grounds to believe that they may have occurred then the Contractor must report the incident to the Company in accordance with clause 8.16. The Company has the right to terminate this Contract immediately if the Contractor is in breach of this clause 8.13.

8.14 In-country activities

In performing any part of this Contract outside Australia, the Contractor and its Contractor Personnel and Sub-Contractors (where applicable) must:

- (a) not engage in any political activity in the relevant country during the provision of the Services;
- (b) observe all laws and respect all religions and customs of that country; and
- (c) conduct themselves in a manner consistent with the Public Service Act 1999 (Cth) (including the Australian Public Service Values and Employment Principles and Code of Conduct).

8.15 Criminal Records Checks for Personnel

The Contractor must ensure that criminal record checks are obtained for all Contractor Personnel involved in the delivery of the Services who will work with children or have contact with children, and for all Expatriate staff engaged to work in the Partner Country. Criminal record checks must be conducted for each country in which the Contractor Personnel has worked for 12 months or longer over the last five years prior to engagement, and for the Contractor Personnel's country/ies of citizenship. In limited circumstances where a country does not provide a criminal record check of adequate reliability, statutory declarations/local legal equivalent should be obtained instead.

8.16 Reporting incidents

Where the Contractor is required to report an incident in accordance with clauses 8.3, 8.4, 8.5, 8.6, 8.7, 8.8, 8.9, 8.10, 8.12, and 8.13 the Contractor must report to the Company immediately on becoming aware of the instance, and in any event within 24 hours.

The Contractor must respond to the Company's enquiries immediately, but in any instance within 24 hours, in relation to any such incidents.

The Company reserves the right to appoint its own investigator, conduct its own investigation or report any incident referred to above to the appropriate law enforcement agencies or any other person or entity Abt deems appropriate for investigation. If Abt exercises its rights under this clause 8.16, the Contractor must provide all reasonable assistance that may be required at its sole expense.

9 Goods and services tax (GST)

9.1 Interpretation

In this clause 9:

- (a) **GST Legislation** means the Goods and Services Tax imposed by the Internal Revenue Commission of Papua New Guinea or any other similar tax; and
- (b) **Recipient** means a person who receives a taxable supply made under or in connection with this document; and
- (c) **Supplier** means a person who makes a taxable supply under or in connection with this document.

Other words or expressions that are defined in the GST Legislation have the same meaning in this clause 9.

9.2 Consideration is GST exclusive

The consideration to be paid or provided for a supply made under or in connection with this document does not include GST.

9.3 Increase for GST

Despite any other provision in this document, if GST is imposed on a supply made under or in connection with this document then:

- (a) the party who makes the payment or provides the other consideration for the supply must pay the Supplier an additional amount equal to the amount of the payment or value of the consideration multiplied by the rate of GST; and
- (b) the additional amount must be paid with the payment or other consideration on which it is calculated.

9.4 Reduction for input tax credits

If a payment to a party is calculated on the basis of a loss, cost or expense incurred by that party, then the amount payable must be reduced by the amount of any input tax credit to which that party is entitled for that loss, cost or expense.

9.5 Tax invoices

For payments under or in connection with this document:

- (a) if the payment is to be made on demand, the demand must include a tax invoice; and
- (b) if the payment is to be made without demand, a tax invoice must be provided to the payer within a reasonable time after the payment is due.

10 Record keeping

10.1 Records

The Contractor must at all times maintain full, true, separate and up-to-date records regarding the Engagement that comply with all applicable requirements:

- (a) in this document;
- (b) specified by the Client;
- (c) specified by the Company in writing; or
- (d) of the Law,

(Records).

10.2 Manner in which Records must be kept

The Records must:

- (a) include a record all receipts and expenses relating to the provision of the Services, including those involving foreign exchange transactions;
- (b) be kept in a manner that permits them to be conveniently and properly audited; and
- (c) enable the extraction of all information relevant to the Engagement,

and must otherwise be kept and maintained in the manner that the Company may from time to time direct.

Subject to the Contractor's obligations in relation to Confidential Information below, the Contractor must maintain the Records, and keep them within its possession or control, during the Term and for a period of seven years following the expiry of the Term.

10.3 Access to Contractor's premises and records

During the Term and for a period of seven years following the expiry of the Term, the Contractor must, upon request by the Company or the Client, provide the Company or the Client (or their nominated Representatives) with access to any premises owned, occupied or used by the Contractor and to all Data, Records, accounts, financial information or other material or information relevant to, or connected with, the Services however and wherever stored that are in the possession or control of the Contractor, for the purposes of inspection and/or copying.

The Contractor must grant the Company or the Client (or their nominated Representatives) the access required by this clause:

- (a) during the hours of 9am and 5pm on a Business Day;
- (b) subject to reasonable prior notice; and
- (c) at no charge.

In the event of an actual or anticipated breach of this document, the Contractor must grant access immediately upon being requested to do so.

Where documents or Records are stored on a medium other than in writing, the Contractor must make available on request such facilities as may be reasonably necessary to enable a legible reproduction to be created, for no charge.

11 Reporting

11.1 Requirements as to financial statements

Any financial statements provided to the Company pursuant to this document must, except as otherwise provided or as the Company otherwise permits, be prepared in accordance with the accounting standards applicable to the Contractor and if not inconsistent with those accounting standards, generally accepted accounting principles and practices in Australia consistently applied.

Where there is any change in the basis upon which financial statements that the Contractor is required to prepare under this document are prepared, the Contractor must provide the Company with sufficient information to assess the change.

11.2 Exception reports and other information

The Contractor must report to the Company and the Client (and any other necessary party) immediately any actual, perceived or anticipated problems or risks of which the Contractor is aware that may have an adverse effect on the performance of the Services. These reports must be provided in accordance with applicable reporting protocols in the Program procedures manuals.

The Contractor must provide the Company with such other reports relating to the Engagement as required by the Services or as the Company reasonably requests from time to time.

11.3 Requirements of reports

Reports prepared by the Contractor (financial or otherwise) must:

- (a) be provided by the date requested, or if no date is specified, promptly;
- (b) must be complete and accurate and not contain any information that is misleading or deceptive, or likely to mislead or deceive,

and, to the extent not inconsistent with any of the foregoing:

- (c) be of a high professional standard, including in relation to report structure, content, drafting and formatting; and
- (d) contain such information, and be in the format and prepared to the standard, that the Company directs from time to time.

If requested by the Company, the Contractor must address any comments (from the Company or the Client) on a report prepared by the Contractor.

The Contractor is responsible for the costs of preparing or updating any report required by this clause.

11.4 Audits

Where the Company has reasonable concerns regarding the Contractor's financial management systems, or its compliance with its accounting or reporting obligations, the Company may by written notice require the Contractor to:

- (a) confirm, by statutory declaration, that the Contractor has complied with its obligations under this document including that it has, and/or it has sighted, all documentation necessary to evidence payments to third parties or to support any claims for payment made in connection with the Engagement;
- (b) provide the Company with any additional documentation necessary to demonstrate its compliance with its obligations under this document, including additional evidence of payments to third parties or to support a claim for payment made in connection with the Engagement; and
- (c) engage an independent organisation acceptable to the Company to undertake an audit of the Contractor's financial management systems including invoicing procedures in accordance with such terms of reference determined by the Company or otherwise agreed with the Company. An audit conducted pursuant to this clause 11.4(c) will be at the Contractor's cost unless the audit reveals that the Contractor is complying with its obligations under this contract, in which case, the Company will pay for the cost of the audit.

The Contractor must comply with any notice received under this clause within 10 Business Days.

If the Company requires an audit to be undertaken under this clause:

- (d) the audit must be undertaken according to the standards of the professional body relevant to the particular audit and the standards (if any) detailed in the terms of reference; and
- (e) the Company may, in its discretion, withhold all payments owing to the Contractor pending positive certification by the auditor of the Contractor's financial management systems, invoicing procedures and practices.

12 Confidentiality

12.1 Obligations of confidentiality

- (a) In this clause 12:
 - (i) Recipient means a party to this document who receives Confidential Information of the other; and
 - (ii) Discloser means a party to this document who discloses its Confidential Information to the other.

- (b) Subject to clause 12.1(d), the Recipient must keep the Confidential Information confidential and must not:
 - (i) use, disclose or reproduce the Confidential Information for any purpose other than for the purposes of complying with its obligations under this document; or
 - (ii) without the prior written consent of the Discloser, disclose any of the Confidential Information to any person other than those Representatives of the Recipient who need to know the information for the purposes of this document.
- (c) The Recipient must take all action reasonably necessary to maintain the confidential nature of the Confidential Information. Without limiting the Recipient's obligations under this clause, it must:
 - (i) establish and maintain effective security measures to safeguard the Confidential Information from unauthorised access, use, copying or disclosure;
 - (ii) use the same degree of care as it uses to protect its own confidential information; and
 - (iii) promptly notify the Discloser of any potential, suspected or actual unauthorised use, copying or disclosure of the Confidential Information.
- (d) The Recipient may disclose Confidential Information if:
 - (i) the Discloser has consented in writing to the disclosure and the disclosure is made in accordance with the terms of that consent; or
 - (ii) the disclosure is required by the Client in accordance with the Head Contract, by Law, any legally binding order or direction of any Government Agency or to comply with the Client Confidentiality Undertaking.
- (e) If the Recipient considers that disclosure is required by clause 12.1(d)(ii), it must, before making the disclosure, to the extent it is reasonably practicable to do so:
 - (i) consult with the Discloser before making the disclosure; and
 - (ii) use its best endeavours to agree on the form and content of the disclosure with the Discloser.

12.2 Ownership of Confidential Information

The Recipient acknowledges that:

- (a) the Confidential Information constitutes valuable and proprietary information of the Discloser; and
- (b) this document does not grant to the Recipient any licence or other right in relation to the Confidential Information except as expressly provided in this document.

12.3 Return of Confidential Information

- (a) Subject to clause 12.3(c), within 21 days of a written request by the Discloser, the Recipient must, at its own expense:

- (i) deliver to the Discloser or, if the Discloser requests, destroy (and certify in writing that destruction), any material that is in the possession, power or control of the Recipient that contains any Confidential Information; and
 - (ii) delete any Confidential Information that the Recipient has entered into a computer, database or other electronic means of data or information storage.
- (b) Despite anything else in this document, the Recipient may retain material containing Confidential Information to the extent that the Confidential Information necessarily forms part of:
 - (i) any board paper or accompanying memoranda submitted to, or any presentation given at, a meeting of the board of directors of the Recipient or a related entity;
 - (ii) the minutes of a meeting of the board of directors of the Recipient or a related entity; or
 - (iii) any other document that the Recipient or a Representative of the Recipient is required by Law to keep.
- (c) Subject to clause 12.3(d), to the extent that material containing Confidential Information is copied or stored as a result of automated computer back-up procedures conducted by the Recipient's computer systems, the Recipient may retain that Confidential Information in its archival or back-up computer storage for the period it normally archives backed-up computer records.
- (d) The Recipient may only retain Confidential Information pursuant to clause 12.3(c) provided that the Recipient does not access or use that Confidential Information except as expressly permitted under this document.
- (e) For the purposes of this clause 12.3, material containing Confidential Information includes:
 - (i) any material created or generated by the Recipient that contains Confidential Information;
 - (ii) material in any form of storage from which the Confidential Information can be reproduced; and
 - (iii) material in any form in which the Confidential Information is embodied or encoded.

12.4 Additional obligations of Contractor

The Contractor must:

- (a) execute, and must ensure that every staff member of the Contractor engaged in the provision of Services who will have access to Confidential Information executes in favour of the Client a deed of confidentiality in the form specified in Schedule E (Client Confidentiality Undertaking) and at all times complies with the Client Confidentiality Undertaking; and
- (b) immediately notify the Company of any potential, actual or suspected breach any of the obligations stipulated under this clause 12 or of the Client Confidentiality Undertaking.

13 Privacy, Intellectual Property & Publicity

13.1 Privacy

The Contractor acknowledges it is or may be a “contracted service provider” within the meaning of the Privacy Act.

The Contractor agrees in respect of the provision of the Services pursuant to the Engagement to comply with the Australian Privacy Principles as they apply to the Client, including:

- (a) to use or disclose personal information obtained during the course of the Engagement only for the purposes of the Engagement;
- (b) to take necessary steps to ensure adequate security measures are in place to protect personal information from misuse, interference and loss and from unauthorised access, modification or disclosure;
- (c) to comply with the requirements of Australian Privacy Principle 8 regarding the disclosure of personal information to an overseas recipient;
- (d) not to do any act or engage in any practice that would – if done or engaged in by the Client – breach the Australian Privacy Principles;
- (e) to comply with any reasonable request or direction of the Client or the Privacy Commissioner in relation to access to, or handling of, personal information;
- (f) to immediately notify the Company if it becomes aware of a breach or possible breach of any obligations referred to in this clause, or the initiation of any action by the Privacy Commissioner relevant to this Contract; and
- (g) to investigate any complaint arising out of a breach or possible breach of any obligations referred to in this clause, and notify the Company of that investigation and outcome.

If applicable, the Contractor agrees to ensure that any sub-contract entered into for the purposes of fulfilling its obligations under this document contains provisions to ensure that the subcontractor has the same awareness and obligations as the Contractor has under this clause, including the requirement in relation to sub-contracts.

The Contractor agrees to indemnify the Client and or the Company in respect of any loss, liability or expense suffered or incurred by the Client and or the Company which arises directly or indirectly from a breach by the Contractor of any obligations referred to in this clause 13.1.

This clause will survive expiration or termination of the Engagement.

13.2 Intellectual Property rights

The Contractor must not, in performing the Services, breach the Intellectual Property rights of any person.

The title to all Intellectual Property rights in relation to Contract Material will vest, upon their creation, in the Client.

If required by the Company or the Client, the Contractor must bring into existence, sign, execute or otherwise deal with any document that may be necessary to enable the vesting of such title or rights in the Client.

The preceding paragraph does not affect the ownership of Intellectual Property in any Prior Material incorporated into the Contract Material, but the Contractor grants to each of the Company and the Client a permanent, irrevocable, royalty free worldwide, non-exclusive licence to use, reproduce, adapt and otherwise exploit such Prior Material that is incorporated into Contract Material. Each licence confers on each of the Company and the Client the right to sub-licence any of their respective employees, agents or contractors to use, reproduce, adapt and otherwise exploit the Prior Material incorporated into Contract Material for the purposes of performing functions, responsibilities, activities or services for, or on behalf of, the Company or the Client.

At the request of the Client the Contractor must provide any consent, authorisation or approval required by the moral rights provisions of the Copyright Act 1968 (Cth) in order to enable the use of any Contract Material.

13.3 Contractor Information

The Company may collect Contractor Information, including Personal Information, contained in this document and other Personal Information requested by, and provided by the Contractor or other persons to, the Company in connection with the Engagement.

The Company may collect and use Contractor Information for the purposes of the Engagement and the Program, to comply with the Company's contractual obligations to the Client, and for internal business purposes, including satisfying applicable legal requirements.

The Company may disclose Contractor Information to the Client, its related bodies corporate and service providers, to any prospective financier of, investor in or purchaser of the Company or any of its business or assets and to Government Agencies.

If Personal Information the Contractor provides to the Company is incomplete or inaccurate, the Contractor may be in breach of its contractual obligations and the Company may be entitled to terminate the Engagement or seek damages from the Contractor or may otherwise be unable to provide the Contractor with the benefits the Contractor is seeking in connection with the Engagement.

To the extent required under the Privacy Act, the Company will give the Contractor access to Personal Information the Company holds about the Contractor in accordance with the Company privacy policy, as it exists from time to time.

The Contractor consents to:

- (a) the Company providing Contractor Information to the Client at any time; and
- (b) the Client providing Contractor Information to other Government Agencies at any time, and publishing details of the name of the Contractor and the nature of the Services.

Without limiting the forgoing, the Contractor acknowledges that Contractor Information includes records of performance reviews and assessments and any related documentation and consents to the Client including such information in an Contractor database and agrees that information of the Contractor's performance may be accessed by the Company or the Client for future reference, including access to applications by the Contractor for future positions with the Client, as a contractor to the Client or as a subcontractor to a contractor to the Client.

This clause survives the Term.

13.4 Publicity

The Contractor must not make any press, media or other announcements or releases relating to this Contract, the Services and the Program without the prior written approval of the Company as to the form, content and manner of the announcement or release, except to the extent that the announcement or release is required to be made by law.

14 Insurance required by Contractor

The Contractor must take out and maintain for the Term insurances:

- (a) in respect of all risks that are required to be insured against under any applicable law or regulation, whether in Australia, the Partner Country or elsewhere;
- (b) that are commercially prudent having regard to the activities to be undertaken by the Contractor as part of the Services;
- (c) public liability insurance to a value of adequate public liability insurance in respect of all risks having regards to activities to be undertaken by the Contractor as part of the Services;
- (d) adequate medical and dental insurance for Contractor Personnel including Specified Personnel who are engaged to operate outside their country of permanent residence; and
- (e) adequate insurance for medical evacuation and evacuation resulting from an insured event for all Contractor Personnel engaged for the provision of Services;

(Required Insurances).

The Contractor must ensure that its Required Insurances provide cover up to a limit that the Company reasonably requests or, if no request is made, up to a limit a prudent owner would buy.

The Contractor must, within seven Business Days of a request by the Company, provide the Company with certificates of currency for all Required Insurances.

The Contractor is responsible for the costs of taking out and maintaining Required Insurances and any deductible or excess payable if any claim is made.

The Contractor must notify the Company in writing immediately upon becoming aware of:

- (f) any actual, threatened or likely claims under any Required Insurances; and
- (g) if an insurer proposes to repudiate, rescind or cancel any Required Insurances or to treat any such insurances as avoided in whole or in part or otherwise decline any valid claim.

The Contractor must ensure that:

- (h) it promptly pays all premiums and does all things necessary to keep each of its Required Insurances in full force and effect;
- (i) it does not do or allow anything to be done, or fail to do any thing, that may entitle any insurer to repudiate, rescind or cancel any Required Insurance or to treat any Required Insurances as avoided in whole or in part or otherwise decline any valid claim; and

- (j) if requested, it keeps the Company advised of the progress of any claim.

If the Contractor fails to maintain any Required Insurances the Company may, at its election, purchase the requisite insurance on the Contractor's behalf. The Contractor must, on demand, pay the reasonable costs and expenses of the Company or its agents incurred in purchasing the relevant insurance and authorises the Company to deduct any amounts owing under this clause from any amounts from time to time owing to the Contractor under this document.

15 Termination of Engagement

15.1 Termination

In addition to any other rights or remedies a party may have at law, or in equity, or under this document, the Company may terminate or reduce the Engagement (and/or any Tasking Note under it) in accordance with:

- (a) clause 15.2 (termination or reduction on notice); and
- (b) clause 15.3 (termination for Contractor default).

15.2 Termination or reduction on notice

- (a) The Company may terminate the Engagement immediately, by notice to the Contractor, if:
 - (i) the Client terminates the Program, the Company contract in relation to the Program or takes or indicates an intention to take, any action that in the Company's opinion will adversely affect its commercial interests in connection with the Program; or
 - (ii) the Client requests the Company to terminate the Engagement.
- (b) The Company may, by notice to the Contractor:
 - (i) terminate; or
 - (ii) reduce the scope of,
the Engagement for convenience with the termination or reduction effective from the time specified in that notice.

The consequences of termination or reduction of the scope under this clause by the Company are set out in clause 15.4.

15.3 Termination for Contractor default

The Company may terminate the Engagement immediately by notice in writing to the Contractor where:

- (a) the Contractor commits a Serious Breach;
- (b) the Contractor breaches a material term of this document that is not capable of remedy;
- (c) the Contractor becomes Insolvent; or

- (d) without limiting the forgoing, the Contractor breaches any of clauses 7.1, 7.4, 8.6, 8.7, 8.8, 8.9, 8.12 or 8.13.

15.4 Consequences of termination

If the Company exercises any of its rights under clauses 15.2 or 15.3, the Contractor must:

- (a) comply with directions given by the Company;
- (b) cease or reduce (as applicable) the performance of the Services; and
- (c) immediately do everything possible to mitigate its losses, and all other losses, costs and expenses arising out of the termination or reduction, including novating any subcontracts to the Company or its nominee, if required by the Company.

Except as otherwise expressly provided in this document, where the Engagement is terminated or reduced by either party the Company is not required to pay Fees, or to reimburse any expenses incurred by the Contractor, other than in respect of Services performed by the Contractor to the reasonable satisfaction of the Company up to the date the Engagement is terminated or reduced.

Termination or reduction of the Engagement will not in any way affect a party's rights that:

- (d) accrued prior to termination or reduction; or
- (e) relate or may arise at any future time from any breach of a party's obligations under this document arising prior to termination or reduction.

16 Warranties

16.1 Warranties by parties

Each party represents and warrants that each of the following statements is true and accurate as at the date of this document and on each anniversary of the date of this document:

- (a) it is validly existing under the laws of its place of incorporation;
- (b) it has the power to enter into and perform its obligations under this document and to carry out the transactions contemplated by this document;
- (c) it has taken all necessary action to authorise its entry into and performance of this document and to carry out the transactions contemplated by this document;
- (d) its obligations under this document are valid and binding and enforceable against it in accordance with their terms;
- (e) the entry into and performance by it of, and the transactions contemplated by, this document do not and will not conflict with any Law applicable to it, its constitutional documents, any agreement or instrument binding on it or any of its assets or the rights (including intellectual property rights) of any third party;
- (f) it is entitled to use and provide all information, data and materials provided by it in the performance of its obligations under this document without the consent of any third party, or where consent is required, it has obtained that consent; and

- (g) it has not entered into this document as trustee of any trust.

16.2 Additional Contractor warranties

The Contractor represents and warrants to the Company that each of the following statements is true and accurate as at the date of this document and on each day of the Term:

- (a) it has the financial capacity, capability, resources and personnel to provide the Services in accordance with and on the basis set out in this document;
- (b) no Conflict of Interest exists or, to the best of the Contractor's knowledge and belief after making due enquiry, is likely to arise in the Contractor's performance of the Engagement;
- (c) all information, data and materials provided by or on behalf of it in connection with the performance of its obligations under this document was true and accurate and complete in all material respects and not misleading or deceptive or likely to mislead or deceive as at the date it is provided or as at the date (if any) at which it is stated to be prepared;
- (d) nothing has occurred and no information has been given or withheld, that results in any information, data or materials provided by it in the performance of its obligations under this document being untrue or misleading in any material respect;
- (e) it has obtained and maintained in full force, any licences, accreditations, permits, registrations or regulatory approvals required by Law and necessary for the provision of the Services;
- (f) it has complied, in all material respects, with all applicable Laws and industry standards in performing the Services;
- (g) it has complied with the Company's reasonable directions in providing the Services;
- (h) the Services are provided with due care and skill and are fit for the purpose of the Program; and
- (i) the work performed to provide the Services is provided by appropriately qualified, skilled and experienced Contractor Personnel and done to a high standard in accordance with best practice.

17 Resolution of disputes

17.1 No proceedings

A party must not commence court proceedings (except proceedings seeking interlocutory relief) in respect of a dispute arising out of this document (Dispute) unless:

- (a) it has complied with this clause 17; or
- (b) the Client has commenced legal proceedings in relation to matters that are a wholly or substantially the subject of the Dispute.

17.2 Notice of Dispute

A party claiming that a Dispute has arisen must give each party to the Dispute (**Disputant**) a notice setting out details of the Dispute.

17.3 Best efforts to resolve Dispute

Each Disputant must conscientiously and in good faith attempt to resolve the Dispute within:

- (a) 10 Business Days of the date notice is given under clause 17.2 (or any longer period agreed by the Disputants); or
- (b) if matters the subject of the Dispute are also the subject of a dispute under the Head Contract and the dispute resolution process under the Head Contract has been enlivened, and the Company gives the Contractor notice of that fact for the purposes of this clause,

(Initial Period).

17.4 Referral to CEOs

If the Disputants cannot resolve the Dispute within the Initial Period, the Dispute must be referred to the chief executive officer (or his or her nominee) of each Disputant who must conscientiously and in good faith attempt to resolve the Dispute or agree on a process for resolving the dispute through means other than litigation or arbitration, including by mediation or conciliation.

17.5 Termination of Dispute resolution process

If the Dispute has not been resolved within:

- (a) 20 Business Days of the date notice is given under clause 17.2 (or any longer period agreed by the Disputants); or
- (b) if matters the subject of the Dispute are also the subject of a dispute under the Head Contract and the dispute resolution process under the Head Contract has been enlivened, and the Company gives the Contractor notice of that fact for the purposes of clause 17.3(b) or this clause, within the period required by clause 40.4 of Part B of the Head Contract,

a Disputant that has complied with this clause 17 may terminate the dispute resolution process by giving notice to the other party and may, if it wishes, commence legal proceedings.

17.6 Breach of this clause

If a Disputant breaches clauses 17.1 to 17.4 (inclusive), each other Disputant does not have to comply with those clauses.

18 Risk and liability

18.1 Consequential loss

Despite any other clause in this document, to the fullest extent permitted by law, the Company is not liable to the Contractor for, nor will any indemnity under this document in favour of the Contractor extend to, any Consequential Loss suffered or claimed against the Contractor, including for:

- (a) any breach of this document;

- (b) any act or omission (including any negligent act or omission) of the Company arising out of or in any way in connection with the performance or non-performance of the Engagement; or
- (c) the termination of the Engagement (whether as a result of breach, repudiation or otherwise).

This clause survives termination of the Engagement.

18.2 Limitation of liability

Despite any other clause in this document or Tasking Note, to the fullest extent permitted by law, the liability of the Company arising out of or in connection with the Engagement, including for any breach of any Engagement Condition or Tasking Note, any act or omission (including any negligent act or omission) of the Company arising out of or in any way in connection with the performance or non-performance of this document or Tasking Note or the termination of the Engagement or Tasking Note, to the extent not expressly excluded, is limited to:

- (a) in respect of any liability in connection with a specific Tasking Note, the Fees payable in respect of that Tasking Note; and
- (b) in respect of all other liability and in aggregate in any event, the total Fees payable under all Tasking Notes.

18.3 General indemnity

The Contractor indemnifies the Company and each of its Representatives from:

- (a) all Loss that the Company or any of its Representatives suffers or incurs by reason of; and
- (b) all Claims made by any third party in relation to, any of the following:
 - (c) any failure by the Contractor to fulfil its obligations in connection with the Engagement, including under this document or any document required to be signed by the Contractor pursuant to this document;
 - (d) any investigation by the Client or Commonwealth Ombudsman in connection with the performance of the Services; and
 - (e) to the extent not covered by the forgoing, any wilful, negligent, reckless, fraudulent or unlawful act or omission of the Contractor.

The Contractor's liability to indemnify the Company shall be reduced proportionally to the extent that any act or omission of the Company contributed to the loss, damage, death or injury.

19 General matters

19.1 Notices

A party's address for service is the address shown in the description of the Parties unless the party has, by notice, notified the other party of a new address.

Notices must be given in writing in English and sent by email, post or delivered to the address of the recipient.

A notice is taken to be given and received:

- (a) if hand delivered to the nominated address, on delivery to the nominated address;
- (b) if sent by prepaid post to the nominated address and the recipient's address is in the same country of posting, at 9.00am (recipient's time) on the third Business Day after the date of posting;
- (c) if sent by prepaid post to the nominated address and the recipient's address is outside the country of posting, at 9.00am (recipient's time) on the seventh Business Day after the date of posting; and
- (d) if sent by email, at 9.00am (recipient's time) on the next Business Day after the date of sending (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that the email has not been delivered.

19.2 Entire agreement

This document and any Tasking Note under it constitute the entire agreement between the parties regarding the matters set out in them and supersede any prior representations, understandings or arrangements made between the parties, whether orally or in writing.

19.3 Variation

The Company may, by notice in writing, amend this document or any Tasking Note to the extent it reasonably considers necessary to comply with a direction given by the Client.

Subject to the forgoing, neither the Engagement Conditions nor any Tasking Note can be varied except in writing signed by all parties.

19.4 Waiver

A right created by this document cannot be waived except in writing signed by the party entitled to that right. Delay by a party in exercising a right does not constitute a waiver of that right, nor will a waiver (either wholly or in part) by a party of a right operate as a subsequent waiver of the same right or of any other right of that party.

19.5 Rights of Client

The Contractor acknowledges and agrees, for the purposes of section 55 of the *Property Law Act 1974 (Qld)*, that to the extent this document confer rights on the Client, the Client may by notice to the Company or to the Contractor, accept the benefit conferred on the Client under this document, require the Contractor to comply with any relevant obligation.

19.6 Assignment

The Contractor cannot assign or transfer any of its rights under this document without the prior written consent of the Company.

19.7 Novation and substitution

If requested by the Company or the Client, the Contractor must promptly execute a deed of novation and substitution, in the form provided to the Contractor pursuant to which, among other things, the Company's rights and obligations in connection with the Engagement are assumed by a third party. If the Client requires the Contractor to execute a deed of novation and substitution in favour of the Client, the Client may request the Contractor to execute a further deed of novation and substitution in favour of a third party.

19.8 Acts of Representatives

For the purposes of this document generally, an act or omission of an employee or other Representative of the Contractor is deemed to be an act or omission of the Contractor.

19.9 Further assurances

Each party agrees, at its own expense, on request of the other party, to do everything reasonably necessary to give effect to this document and the transactions contemplated by them, including the execution of documents.

19.10 Applicable law

The law in force in Papua New Guinea applies to this document. Each party irrevocably and unconditionally submits to the nonexclusive jurisdiction of the courts of Papua New Guinea and any courts that have jurisdiction to hear appeals from any of those courts and waives any right to object to any proceedings being brought in those courts.

19.11 Provisions can be severed

If a provision of this document is illegal or unenforceable then that provision must be severed from this document and the remaining provisions of this document continue in force. If only part of a provision is illegal or unenforceable then this clause applies to that part only.

19.12 Counterparts

This document may consist of a number of counterparts and the counterparts taken together constitute one and the same agreement. The parties consent to the exchange of counterparts by attachment to email.

19.13 Contra proferentem

No rule of construction will apply in the interpretation of this document to disadvantage a party on the basis that that party drafted this document or any provision of this document.

19.14 Continuance of rights

The effect of any clause of this document related to confidential information, intellectual property rights, the Company's right to recover money and those clauses containing warranties, indemnities, guarantees, securities or those clauses expressly or impliedly intended to continue beyond the Term will continue after the Term.

19.15 Interpretation

In this document:

- (a) headings are for reference only and do not affect the meaning of a clause;
- (b) the singular includes the plural and vice versa and words importing a gender include other genders;
- (c) other grammatical forms of defined words or expressions have corresponding meanings;
- (d) “person” includes a firm, a body corporate, an unincorporated association or an authority;
- (e) an agreement, representation or warranty:
 - (i) in favour of two or more persons is for the benefit of them jointly and severally;
 - (ii) on the part of two or more persons binds them jointly and severally;
- (f) a reference to a party is to a party to this document, and a reference to a party to a document includes the party’s executors, administrators, successors and permitted assigns and substitutes;
- (g) a reference to:
 - (i) a document includes any variation or replacement of it and all schedules, annexures and exhibits to the document
 - (ii) a law includes regulations and other instruments under it and amendments or replacements of any of them;
 - (iii) a thing includes the whole and each part of it;
 - (iv) a group of persons includes all of them collectively, any two or more of them collectively and each of them individually;
- (h) a reference to “PGK” or “kina” is a reference to Australian currency;
- (i) a reference to a specific time means the time in Port Moresby, Papua New Guinea;
- (j) “including” when introducing a list of items does not limit the meaning of the words to which the list relates to those items or to items of a similar kind;
- (k) each Tasking Note is governed by the terms and conditions of this document. To the extent of any inconsistency between a Tasking Note and this document, this document prevails to the extent of the inconsistency.

Schedule A – Definitions

In this document, unless the context otherwise requires:

Adviser Remuneration Framework means the set of rates and allowances for individuals who provide advice on the strategic direction and implementation of the Australian Aid Program. For details visit the website of the Australian Government, Department of Foreign Affairs and Trade (www.dfat.gov.au).

Australian Privacy Principles has the meaning given in the *Privacy Act 1988 (Cth)*.

Authorisation means an authorisation, consent, visa, permit, approval, resolution, licence, registration, filing or lodgement required by a Government Agency or any Law.

Business Day means a day that is not a Saturday, Sunday, bank holiday or public holiday in the Partner Country.

Client means the client stated in the Key Details section.

Client Confidentiality Undertaking means the confidentiality deed to be entered into by the Contractor's personnel in favour of the Client in the form of Schedule E.

Commonwealth means the Commonwealth of Australia.

Commonwealth Ombudsman means the Commonwealth Ombudsman as defined in the *Ombudsman Act 1976 (Cth)* and any delegate.

Confidential Information means, in the case of a Discloser, information that is by its nature confidential, the Discloser has designated confidential or that the Recipient knows or ought to know is confidential and includes, in the case of the Company:

- a) information designated by the Client as confidential;
- b) the Agreement Material or information comprised in or relating to the Agreement Material, the Data, Intellectual Property of the Company or third parties (including the Client) where third party Intellectual Property is made available by the Company or the Client, or to the internal management and structure of the Department of Foreign Affairs and Trade, the Client or the Commonwealth of Australia;
- c) Personal Information (other than Personal Information of the Contractor); and
- d) this document,

but does not include in the case of the Company or the Contractor:

- e) information that is or becomes public knowledge other than by breach of this document or other obligation of confidentiality;
- f) has been independently developed or acquired by the Recipient prior to the Start Date; or
- g) is in the Recipient's possession without restriction regarding disclosure prior to the Start Date.

Consequential Loss means any special, indirect or consequential losses; any economic loss in respect of any claim in tort; any loss of profits, loss of production, loss of revenue, loss of use, loss of contract, loss of goodwill, loss of opportunity, loss of reputation or wasted overheads whatsoever and any loss arising

out of any claim by a third party, but does not include a loss in respect of the cost of repairing, replacing or reinstating any real or personal property of any person that has been lost, damaged or destroyed or personal injury to or death of any person or in respect of any personal injury claim, special loss or economic loss as those terms are used in the context of personal injury claims.

Contract means this document as amended from time to time and includes its Schedules and any attachments.

Contract Material means all material created or required to be developed or created as part of, or for the purposes of performing, the Services, including documents, equipment, information and data stored by any means, and any software and associated instrumental/operations manuals.

Contractor Information means any information relating to the Engagement and the Contractor. It may be Personal Information.

Contractor Personnel means:

- a) officers, employees, agents or subcontractors of the Contractor;
- b) officers, employees, agents or subcontractors of the Contractor's subcontractors; and
- c) includes those individuals (if any) engaged by the Contractor or its subcontractors on a voluntary basis;

engaged in the performance of the Services;

Corporations Act means the *Corporations Act 2001 (Cth)*.

Data means any information provided to the Contractor from any source, or collected or created by the Contractor, in connection with the Engagement, whether in magnetic, electronic, hardcopy or any other form.

Engagement means the Contractor's engagement by the Company to provide the Services in connection with the Program on the terms and conditions contained in this document.

End Date means the later of the date stated in the Key Details section and the date that the final deliverable is accepted by the Company.

Fees means the amounts payable to the Contractor in consideration for providing the Services, as calculated in accordance with Schedule C.

Government Agency means any governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity.

Head Contract means the contract between the Company and the Client in respect of the Program as amended from time to time.

Insolvent: a person is Insolvent if:

- a) it is (or states that it is) an insolvent under administration or insolvent (each as defined under the Corporations Act);
- b) it has a controller (as defined under the Corporations Act) appointed or is in liquidation or provisional liquidation, under administration or wound up or has had a receiver or receiver and manager appointed to any part of its property;

- c) it is subject to any arrangement, assignment, moratorium or composition, protected from creditors under any statute or dissolved (in each case, other than to carry out a reconstruction or amalgamation while solvent on terms approved by the other parties to this document);
- d) an application or order has been made (and in the case of an application, it is not stayed, withdrawn or dismissed within 30 days), resolution passed, proposal put forward, or any other action taken, in each case in connection with that person, which is preparatory to or could result in any event or circumstance referred to in paragraph a), b), or c) to this definition of Insolvent, above occurring;
- e) it is taken (under section 459F(1) of the Corporations Act) to have failed to comply with a statutory demand;
- f) it is the subject of an event described in section 459C(2)(b) of 585 of the Corporations Act (or it makes a statement from which another party to this document reasonably deduces it is so subject);
- g) it is otherwise unable to pay its debts as and when they fall due; or
- h) something having a substantially similar effect to any event or circumstance referred to in paragraphs (a) to (g) above happens in connection with that person under the law of any jurisdiction.

Intellectual Property means all copyright and all rights in relation to inventions (including patent rights), trade marks, designs and confidential information, and any other rights resulting from intellectual activity in the industrial, scientific, literary and artistic fields recognised in domestic law anywhere in the world.

Law includes any law or legal requirement, including at common law, in equity, under statute, regulation or by-law, any condition of any Authorisation and any decision, directive, guidance, guideline or requirements of a Government Agency.

Loss means any loss, damage, liability, cost or expense including legal expenses on a solicitor and own client basis, and includes Consequential Loss.

Partner Country means the country stated in the Key Details section.

Personal Information has the meaning given in the *Privacy Act 1998 (Cth)*.

Prior Material means all material developed by the Contractor or a third party independently from the Services whether before or after commencement of any Services.

Privacy Act means the *Privacy Act 1988 (Cth)*.

Privacy Commissioner means the person so named in the *Australian Information Commissioner Act 2010 (Cth)*.

Program means the program stated in the Key Details section.

Record has the meaning given in clause 10.1.

Representative of a person means any related body corporate of the person (within the meaning of the Corporations Act) and any director, employee, agent or contractor of the person or any related body corporate.

Research Activity means a research activity that is financed, wholly or in part, using funds of the Client that are distributed or made available in connection with the performance of the Services.

Serious Breach means:

- a) a breach of term of this document that is capable of remedy, where the Contractor fails to remedy the breach, within five Business Days of receiving written notice to remedy from the Company; or
- b) directly or indirectly making, causing to be made or accepting any offers to provide gifts, payments, bribes of any other kind or any other benefits to any party that may be perceived of as being illegal or corrupt.

Services means the services specified in Schedule B as may be varied by the parties in writing.

Specified Personnel means the Contractor Personnel specified in Schedule D.

Start Date means the date this Contract is signed by the last party to sign the Contract or such other date as the parties agree in writing.

Tasking Note means a legally binding document of that name which has been agreed by the parties and records the details referred to in Schedule B.

Term has the meaning given in clause 4.

Schedule B – Services

1. Background

2. Scope of Services

3. Deliverables

4. Required Qualifications/ Experience:

5. Reporting Requirements

Initial Reporting

Deliverable	Due Date	Approved By
Partner Self-Assessment - Prevention of Sexual Exploitation Abuse and Harassment (PSEAH)	30 days after execution of this Contract	The Company
Partner Comprehensive Assessment –PSEAH	30 days after execution of this Contract	The Company
Partner Self-Assessment – Child Protection (CP)	30 days after execution of this Contract	The Company
Partner Comprehensive Assessment - CP	30 days after execution of this Contract	The Company
Partner Self-Assessment - Fraud	30 days after execution of this Contract	The Company
Partner Comprehensive Assessment - Fraud	30 days after execution of this Contract	The Company

Any reports the Contractor is requested to provide must:

- be accurate and not misleading in any respect;
- be prepared as directed by the Company;
- be delivered at the time specified by the Company
- be provided in the format and on the media approved or requested by the Company or the Client
- unless directed otherwise, not incorporate either the Client's, the Company's or the Contractor's logo or branding

6. Performance Assessment

The Company will conduct regular performance assessments of the Contractor and its Specified Personnel in accordance with the Company subcontracting policies and as required by the Client. The Contractor agrees that the results of the performance assessments may be shared with the Client in accordance with the requirements of the Head Contract.

Schedule C – Fees

|

INSERT

Applicability of the Payment Times Procurement Connected Policy

PT PCP Subcontract

Is this Contract a PT PCP Subcontract as defined by the Payment Times Procurement Connected Policy (PT PCP)? Definition repeated below for ease of reference.

YES ☐NO ☐

“PT PCP Subcontract” means a subcontract between a Reporting Entity [e.g., the Company] and another party (Other Party) [e.g., the Contractor] where:

- a) the subcontract is (wholly or in part) for the provision of goods or services for the purposes of the Head Contract;
- b) both parties are carrying on business in Australia; and
- c) the subcontract has a total value of less than (or is reasonably estimated will not exceed) \$1,000,000 (GST inclusive) during the term of the subcontract, not including any options, extensions, renewals or other mechanisms that may be executed over the life of the subcontract (but including work/official orders entered into that are valued up to \$1 million (GST inclusive) under standing offer (panel) arrangements);

but does not include the following subcontracts:

- d) subcontracts entered into prior to the Reporting Entities’ tender response for the Head Contract;
- e) subcontracts which contain standard terms and conditions put forward by the Other Party and which cannot reasonably be negotiated by the Reporting Entity; or
- f) subcontracts for the purposes of:
 - i) procuring and consuming goods or services overseas; or
 - ii) procuring real property, including leases and licences.

If this Contract is a PT PCP Subcontract, then, despite clause 6, the Company will:

- pay the Fees within 20 calendar days following the acknowledgement of the satisfactory delivery of goods or services and the receipt of a correctly rendered invoice from the Contractor; and
- pay interest where the accrued interest exceeds AUD \$100 (or equivalent amount in another currency) if the Company has failed to pay the Fees in accordance with the timeframe given above.

Reporting Entity Subcontract

Is this Contract a Reporting Entity Subcontract as defined by the Payment Times Procurement Connected Policy (PT PCP)? Definition repeated below for ease of reference.

YES ☐

NO ☐

Reporting Entity Subcontract means a subcontract under which:

- a) a Reporting Entity [e.g., the Contractor] provides goods or services directly or indirectly to another Reporting Entity [e.g., the Company], for a purpose ultimately funded by a Non-corporate Commonwealth Entity; and
- b) the value of the goods or services provided under the subcontract are estimated to exceed AUD \$4,000,000 (GST inclusive).

If this Contract is a Reporting Entity Subcontract, then the Contractor must ensure that its subcontracts contain equivalent PT PCP clauses to those stated in the 'PT PCP Subcontract' and 'Reporting Entity Subcontract' sections of this Schedule C.

The Contractor may make a complaint to the Australian Government PTPCP Policy Team or to the Commonwealth as represented by the Client in accordance with the PTPCP if there has been non-compliance with the PTPCP.

For more information on the Payment Times Procurement Connected Policy, the policy and accompanying FAQ are available on the Treasury's website: <https://treasury.gov.au/>

Schedule D – Specified Personnel

The Contractor will provide the Services through the following Specified Personnel:

Name	Role

DRAFT

Schedule E – Deed of Confidentiality

THIS DEED POLL is made in favour of the **COMMONWEALTH OF AUSTRALIA** represented by the Department of Foreign Affairs and Trade ('**DFAT**').

BY Full Name, Physical Address of Consultant OR Nominated Representative (the '**Recipient**').

RECITALS

- A. DFAT and **Abt Associates Pty Ltd** (the '**Company**') have entered into a Contract for the purpose of a Program in Partner Country.
- B. The Recipient has been engaged by the Company to work on the Program.
- C. The Recipient will, in carrying out that work, be given access to Confidential Information.
- D. DFAT requires the Recipient to enter into this Deed in relation to use of Confidential Information.

THE RECIPIENT DECLARES AS FOLLOWS:

1. INTERPRETATION

- 1.1 In this Deed, unless the contrary intention appears:

'**Confidential Information**' means information that:

- (a) is designated by DFAT as confidential; or
- (b) the Recipient knows or ought to know is confidential, but does not include information which:
- (c) is or becomes public knowledge other than by breach of this Deed or other obligation of confidentiality.

'**Personal Information**' has the same meaning as in the *Privacy Act 1988* (Cth).

2. CONFIDENTIAL INFORMATION

- 2.1 The Recipient acknowledges and agrees that:

- (a) the Confidential Information is confidential and that any Confidential Information disclosed to the Recipient is disclosed to the Recipient only pursuant to the terms of this undertaking;
- (b) it must not, other than with the prior written approval of the Commonwealth, use, disclose, divulge or deal with any Confidential Information, nor allow any act, matter or thing to be done or occur whereby any Confidential Information may be ascertained or used by, or disclosed or communicated to, any other person, except in accordance with the terms of this undertaking; and
- (c) improper use or disclosure of Confidential Information would damage the Commonwealth.

3. RESTRICTIONS ON USE

3.1 The Recipient must:

- (a) keep the Confidential Information, and all documents containing, or referring to, any Confidential Information, under effective control of the Recipient;
- (b) not use or reproduce any document containing, or referring to, any Confidential Information, nor allow any other person to use or reproduce any such document;
- (c) take all reasonable steps to ensure that Confidential Information, and all documents containing, or referring to, any Confidential Information, are protected at all times from any unauthorised use, disclosure or access, and immediately notify the Commonwealth if the Recipient becomes aware of any unauthorised access to, or use or disclosure of, any Confidential Information;
- (d) if required at any time by the Commonwealth to do so, deliver up to the Commonwealth, or destroy, all Confidential Information, including all documents containing, or referring to, any Confidential Information, in the possession, custody or control of the Recipient; and
- (e) if required by the Commonwealth:
 - (i) permit the Commonwealth reasonable access to the Recipient's premises and information management systems to ensure or check compliance with this undertaking; and
 - (ii) provide to the Commonwealth a statutory declaration of an officer of the Recipient stating that **Clause 3.1** has been complied with.

4. PERSONAL INFORMATION

- 4.1 The Recipient agrees, with respect to all Personal Information acquired by it during the performance of the Contract, to abide by the provisions of the *Privacy Act 1988 (Cth)* as if the Recipient were an 'Agency' as defined by that Act.

5. SURVIVAL OF OBLIGATIONS

- 5.1 The obligations in this Deed are perpetual.

EXECUTED as a deed poll.

SIGNED by the Recipient:

Signed in the presence of:

Recipient Signature

Witness Signature

Recipient Name

Witness Name

Date:

Schedule F – Safeguarding Code of Conduct for Partners

Version 1.1_04/02/2021

Abt Associates is committed to the safety and protection of all people in the delivery of program services. This safeguarding Code of Conduct aims to protect others from sexual exploitation, child abuse, harassment, discrimination, intimidation or abuse in any form. The Code provides clear boundaries on behaviour and conduct expected of all Abt Personnel and Partners in discharging their duties on behalf of Abt Associates, regardless of location.

- 'Abt Personnel' refers to head office employees, locally engaged employees, advisers, consultants and volunteers engaged by Abt Associates.
- 'Partners' refers to contractors, sub-contractors, grantee organisations, program implementation partners and the like engaged by Abt Associates.

Abt expects everyone to uphold and promote the highest standards of ethical and professional behaviour to achieve our vision and mission; and contribute to a working environment that promotes mutual respect, integrity, dignity and non-discrimination. This Code serves as a guide to make ethical decisions and to regulate professional and personal conduct.

Whilst recognising that local laws and cultures differ from one country to another, this Code is developed from global standards and legal requirements in the aid sector. The Code is in accordance with relevant Abt Associates policies and procedures and any breach may result in disciplinary action, including dismissal in some instances, and in some cases, criminal prosecution.

Abt Personnel and Partners must undertake to discharge their duties and to regulate their conduct in accordance with the requirements of this Code, thereby contributing to Abt Associates quality of performance and reputation.

Commitment to Safeguarding Code of Conduct

The Partner Organisation agrees in their association with Abt Associates, to ensure that the professional and personal conduct of its personnel (i.e., its employees, advisers, consultants, contractors, sub-contractors, sub-organisations, partners, volunteers and the like) adhere to the requirements of this Code when involved in the implementation of the Activity. It will ensure to:

The Partner Organisation agree in their association with Abt Associates, that its personnel will:

1. Create and maintain a safe work environment that prevents and protects children and adults from sexual exploitation, child abuse, harassment, discrimination, intimidation or abuse in any form.
2. Treat all children and adults with dignity and respect regardless of their race; colour; gender; language; religion; political or other opinion; national, ethnic or social origin; property; disability; birth or other status.
3. Ensure that for work-related purposes when they photograph or film a child, to:
 - Comply with local traditions or restrictions for reproducing personal images
 - Obtain informed consent from the child and parent or guardian of the child and explain how the photograph or film will be used.
 - Ensure photographs, films, videos, DVDs and all other media, present in a dignified and respectful manner
 - Ensure children and adults are adequately clothed and not in poses that could be seen as sexually suggestive, and not in a vulnerable or submissive manner.
 - Ensure images are honest representations of the context and the facts.
 - Ensure file labels, meta-data or text descriptions do not reveal identifying information about a child when sending images electronically or publishing images in any form.
 - Treat with the utmost importance the confidentiality of the children and adults in our programs, and never provide personal details to unauthorised person/s.
4. Ensure another adult is present when working with children.
5. Immediately report any concerns regarding possible violations of Abt Associates safeguarding policies or Code of Conduct.
6. Maintain confidentiality about any concerns and only share information with those who need to know such information.
7. Immediately disclose any charges, civil judgment, criminal convictions and other outcomes of an offence, including those under traditional law, which occurred before or occurs during any association with Abt Associates that relates to allegations made relating to sexual harassment, exploitation or abuse.
8. Comply with all relevant Australian and local legislation, including local labour laws.

The Partner Organisation agree in their association with Abt Associates, that its personnel:

9. **Must not** sexually harass, exploit or abuse any other person(s) and understand that these behaviours constitute acts of gross misconduct and are therefore grounds for disciplinary action, up to and including dismissal.

10. **Must not** engage in any form of sexual activity or develop physical/sexual relationships with children (persons under the age of 18) regardless of the age of consent locally, with understanding that ignorance or mistaken belief in the age of a child is not a defence.
11. **Must not** exchange money, employment, goods, or services for sex, including sexual favours or other forms of humiliating, degrading or exploitative behaviour, with understanding this means they must not buy sex from anyone at any time, or exchange assistance that is due to program participants / beneficiaries for sex.
12. **Must not** have sexual relations with program participants/ beneficiaries (in exchange for assistance or any other reason) recognising the inherent unequal power dynamics which may undermine the credibility and integrity of Abt Associates work.
13. **Must not** request any service or sexual favour from participants of Abt programs, children or people in the communities in which Abt Associates works, and will not engage in sexually harassing, exploitative or abusive relationships.
14. **Must not** support or take part in any form of sexually exploitative or abusive activities, including, for example, child pornography, trafficking of human beings or child marriage.
15. **Must not** hire children for domestic or other labour, which is inappropriate given their age or developmental stage, which interferes with their time available for education and recreational activities or which places them at significant risk of injury or exploitation.
16. **Must not** use language or behaviour, or physical punishment, towards children or adults that is inappropriate, harassing, abusive, sexually provocative, demeaning or culturally inappropriate.
17. **Must not** use resources, including the use of computers, cameras, mobile phones or social media, to exploit, groom or harass participants of programs, children or adults in the communities where Abt Associates works. This means that it is prohibited to access, display or transmit offensive and/or pornographic material on any item provided or subsidized electronic device (e.g., computer, tablet, phone) at any time, or on any personal electronic device in the workplace.

The Partner Organisation understands its responsibilities to ensure it adheres to the principles bound by this Safeguarding Code of Conduct, to prevent actions or behaviours that could be construed as sexual exploitation, abuse or harassment (of any kind) when implementing Abt Associates program activities.

The Partner Organisation acknowledges that it is their responsibility to undertake reasonable action to ensure its personnel i.e., its employees, advisers, consultants, contractors, sub-contractors, sub-organisations, partners, volunteers and the like – adhere to the requirements of this Code when involved in the implementation of the Activity

Signature:

Name:

As representative for:

Date:

Definitions

Child /Children	A child is any individual under the age of 18, irrespective of local country definitions of when a child reaches adulthood.
Adults experiencing vulnerability	Anyone 18 years or over who - • is unable to take care of themselves/ protect themselves from harm or exploitation; or • due to their gender, mental or physical health, disability, ethnicity, religious identity, sexual orientation, economic or social status, or as a result of disasters and conflicts, are deemed to be at risk; or • is in a situation of subordination and therefore experiencing a power differential putting them at risk.
Program Participants/ Beneficiaries	A person (outside of the organisation) who is receiving assistance or services from the program. Alternatively referred to as a member of the affected population, a person affected by crisis and/or a person the program aims to assist.
Sexual Exploitation	Sexual exploitation means any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another.
Sexual Abuse	Sexual abuse means the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions.
Sexual Harassment	Sexual harassment is any unwelcome sexual advance, request for sexual favour, verbal or physical conduct or gesture of a sexual nature, or any other behaviour of a sexual nature that might reasonably be expected or be perceived to cause offence or humiliation to another, when such conduct interferes with work, is made a condition of employment or creates an intimidating, hostile or offensive work environment. While typically involving a pattern of behavior, it can take the form of a single incident.
Transactional Sex	Transactional sex refers to the exchange of money, employment, goods or services for sex or sexual favours, even in places where sex work is legal. After a crisis, people may engage in transactional sex to generate income and meet basic survival needs. They may not identify with the term “sex worker”. For a person purchasing sex in this setting, it is often impossible to distinguish between exploitative and non-exploitative transactional sex.
Fraternisation	Any relationship that involves, or appears to involve, partiality, preferential treatment or improper use of rank or position including but not limited to voluntary sexual behaviour. It could include sexual behaviour not amounting to intercourse, a close and emotional relationship involving public displays of affection or private intimacy and the public expression of intimate relations.
Victim/Survivor	A person who is, or has been, sexually exploited, harassed or abused.

Execution

Executed as an agreement

Executed by Company

In the presence of:

Company Authorised Representative

Signature of Witness

Name of Authorised Representative (print)

Name of Witness (print)

Date:

Executed by Contractor:

In the presence of:

Contractor Authorised Representative

Signature of Witness

Name of Authorised Representative (print)

Name of Witness (print)

Date: