

REQUEST FOR TENDER

Title: Agri-food (Cocoa) Export Pilot Project Design

January 2022

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Request for Tender Details

Agri-food (Cocoa) Export Pilot Project Design																						
General Information																						
1	RFT Title	Agri-food (Cocoa) Export Pilot Project Design																				
2	RFT Number	RFT-003/Katalis-MI/I/2022																				
3	RFT Issue Date	14 January 2022																				
4	Services to be supplied, schedule and location	The detail of the service is in the Attachment 1: Terms of Reference .																				
5	Budget	Maximum AUD 77,000 (excluding VAT/GST). All rates should only be listed in AUD or IDR (for Indonesian entity) excluding VAT/ GST																				
6	Terms and Condition	Katalis reserves the right to seek proposals from any organisation; accept or reject any Quote; terminate, extend or vary its selection process for the Services; seek information or negotiate with any organisation that has not been invited to submit a Quote; terminate negotiations at any time and commence negotiations with any other organisation; and evaluate bids as Katalis sees appropriate.																				
Required Main Documents for Proposal																						
7	Proposal Format	<p>The proposal will consist of two (2) separate documents that cover Technical and Financial Proposals with detail as follow:</p> <p>1. Technical Proposal:</p> <p>a. A proposal of no more than [10] pages addressing the scope of work;</p> <p>b. A Contractor Personnel Register, nominating an adviser for each of the positions in team composition that meet the criteria with the following format:</p> <table><tr><th>Name</th><th>Position</th><th>Indicative Number of Days-</th><th>Daily Rate (AUD/IDR)</th></tr><tr><td>xxxx</td><td>Ex: Project Leader</td><td>Ex: 20</td><td>Ex: AUD 950</td></tr><tr><td>Insert</td><td>Insert</td><td>Insert</td><td>Insert</td></tr><tr><td>Insert</td><td>Insert</td><td>Insert</td><td>Insert</td></tr><tr><td>Insert</td><td>Insert</td><td>Insert</td><td>Insert</td></tr></table>	Name	Position	Indicative Number of Days-	Daily Rate (AUD/IDR)	xxxx	Ex: Project Leader	Ex: 20	Ex: AUD 950	Insert	Insert	Insert	Insert	Insert	Insert	Insert	Insert	Insert	Insert	Insert	Insert
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xxxx	Ex: Project Leader	Ex: 20	Ex: AUD 950																			
Insert	Insert	Insert	Insert																			
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		<p>c. A CV of personnel member no more than [2] A4 pages for each Contractor Personnel nominated in the Personnel Register above.</p> <p>d. Up to [3] Past Experience Statements of no more than 1 A4 page each detailing relevant skills and experience of the supplier to provide the services.</p> <p>Note:</p> <p>a. Bidders should list nominees for all positions to form part of this bid in the format of the table above.</p> <p>b. Bidders may add other project-based/administration positions if needed as long as the maximum nominated budget is not exceeded; and</p> <p>c. Bidders must attach the CV of all listed/nominated persons</p> <p>2. Financial Proposal:</p> <ul style="list-style-type: none"> ○ A management fee that is inclusive of overheads and profit margins. ○ A remuneration rate for each adviser nominated in the Contractor Personnel Register (section 7 1(b) above) noting a number of inputs for each adviser and their respective daily/monthly rate. For all advisers, the remuneration rates must be competitive to prevailing market rates. ○ Reimbursable Operational Cost: Katalis will pay the supplier selected company reimbursable expenses incurred by the supplier for delivery of the Services. The supplier should detail these costs in their cost proposal. <p>Note: For this assignment, we do not anticipate travel/meeting costs (all meetings/consultations/engagements will be done virtually online unless otherwise it is approved by Katalis and DFAT).</p> <p>The proposal must be valid for a minimum of 90 days from the date of closure of tenders.</p> <p>The quotation must include all required documents, declarations, and exhibits as well as full details of prices.</p>
Required Attachment to the Proposal		
8	Attachment 1: Tenderer's Declaration	The tenderers must fill and sign the Tenderer's Declaration form in Attachment 2: Tenderers Declaration Template . It will be submitted as the attachment of the Technical Proposal.
9	Attachment 2: Due Diligence Form	Tenderers/prospective grantees/sub-contractors must complete the Due Diligence Preliminary Statement as part of the Request for Tender (RFT). This provides Katalis and Cardno with an initial partner risk profile but is not part of the tender/proposal evaluation scoring.

		<p>The <u>preferred tenderer</u> will be required to complete a Due Diligence Assessment before a contract/grant agreement is signed. This must be supported by evidence that Cardno can verify.</p> <p>The Due Diligence Assessment template should be included in the proposal package for information only. It is used to form a risk assessment of the successful partner and, where necessary, to build additional safeguards into the activity agreement and implementation.</p> <p>Please refer to Attachment 3: Due Diligence Template for the form to be filled in.</p> <p>Detailed information can be found via the link: https://dfat.gov.au/about-us/publications/Documents/due-diligence-framework.pdf</p>
Procurement Process		
10	Evaluation	<p>Katalis will conduct an initial assessment of Technical Proposals. The Technical Proposal will be evaluated against the Selection Criteria listed below:</p> <ol style="list-style-type: none"> 1. Methodology – 20% The proposal should provide a detailed explanation of the proposed methodology to undertake the work. 2. Technical Skills and Team Composition – 40% The proposal should provide detailed information about the technical skills to undertake the work including Bios/CVs of key staff. 3. Experience – 20% Experience of firm in undertaking similar work 4. Financial Proposal - 20% - as per section 7 2 above The supplier's financial rates include: <ul style="list-style-type: none"> ▪ An organisational management fee expressed as a percentage of total adviser remuneration. ▪ A table of individual adviser rates is listed in section 7 1(b) above. A value of Money Analysis (narrative 1-2 pages) that covers key criteria of VFM (according to DFAT standard VFM criteria as per https://www.dfat.gov.au/aid/who-we-work-with/value-for-money-principles/Pages/value-for-money-principles)
11	Submission Requirement and Closing Date	<p>The bidders must provide a straightforward, complete, and concise description of the firm's capability to meet the requirements of this RFT. The proposals consist of:</p> <ol style="list-style-type: none"> 1. Technical Proposal 2. Financial Proposal

		All submissions must be received in electronic copy, each proposal separately, by email to giant.praceka@iacepa-katalis.org no later than Friday, 11 February 2022, at 17.00 (Jakarta time) .
12	Questions	<p>All inquiries regarding the submission of a proposal must be made in writing and submitted by email to giant.praceka@iacepa-katalis.org no later than Monday, 31 January 2022, at 17.00 (Jakarta time).</p> <p>Questions and requests for clarification and the responses that Katalis believes may be of interest to others will be circulated to all RFT recipients. Only the written answers issued by Katalis will be considered official and carry weight in the RFT process and subsequent evaluation. Any verbal information received from employees of Katalis, Cardno Emerging Market, or any other entity <u>should not</u> be considered as an official response to any questions regarding this RFT.</p>
13	Selected Tenderer	<p>The award will be made to a responsible tenderer whose offer follows the RFT instructions, meets the eligibility requirements, and meets or exceeds the minimum required technical specifications, and is judged to be the best value for money based on a technically acceptable basis, fulfills performance standards, has a strong approach/methodology, and price.</p> <p>Best-offer quotations are requested. It is anticipated that an award will be made based on the original quotations and technical proposal. However, Katalis reserves the right to conduct any of the following:</p> <ul style="list-style-type: none"> • Katalis may conduct negotiations with and/or request clarifications from any bidder prior to award. • Katalis may cancel this RFT at any time. <p>Please note that in submitting a response to this RFT, the bidder understands that any protest hereunder must be presented—in writing with full explanations—to Katalis for consideration. Katalis, at its sole discretion, will make a final decision on the protest for this procurement.</p>
14	Instructing Officer	<p>Please submit proposals and questions by email to:</p> <p>Name : Giant Praceka</p> <p>Position : Procurement Officer</p> <p>Email : giant.praceka@iacepa-katalis.org</p>
RFT Document Attachment		
15	Attachment 1	Terms of Reference
16	Attachment 2	Tenderers Declaration Template
17	Attachment 3	Due Diligence Template
18	Attachment 4	Template of Cardno Contract

Attachment 1: Terms of Reference

Terms of Reference – Firm / Service Provider

Agri-food (Cocoa) Export Pilot Project Design	
Location:	Jakarta
Lead Adviser responsible:	Market Integration Lead Adviser
Estimated start and end date:	March – May 2022
Estimated budget:	Up to AUD77,000
Budget Source:	Market Integration

Summary of services required

A firm will be recruited to design an Agri-food (Cocoa) Export Pilot Project and will be responsible for consulting with stakeholders and designing a pilot project on developing Indonesian cocoa exports, either directly to Australia, or through “powerhouse” linkages, to third markets.

The advisory firm will have experience working with large agricultural and food businesses and across agricultural value chains to improve competitiveness and develop trade. The firm will consult with multiple stakeholders, including national and local government, the business community (including large and small businesses and associations) and academia, and bring a Gender Equality, Disability and Social Inclusion (GEDSI) focus to the work.

The advisory firm will have technical knowledge and networks in the Indonesian cocoa industry and have experience with the practical challenges, opportunities, and issues associated with improving competitiveness, productivity, and exports. The overall objectives of the activity are to:

- Prepare a high-level situation assessment that summarises cocoa production, market trends and exports, identifies key stakeholders from the business community and government for engagement, and identifies important issues and impediments impacting the competitiveness of cocoa exports
- Identify opportunities for mutually beneficial collaboration between Indonesia and Australia to support cocoa export growth by conducting research and interviews with selected key stakeholders and arranging Focus Group Discussions (FGDs)
- Develop an Indonesia (Sulawesi) cocoa exports pilot project Activity Proposal in Katalis format, approved by the Katalis management team, for implementation in 2022.

Background and description of activity

Indonesia is the biggest cocoa producer in Asia and sixth in the world as of 2018.¹ According to Badan Pusat Statistik (BPS), Sulawesi is the largest cocoa growing area in Indonesia, accounting for more than 50 percent of national cocoa production. Most cocoa production is supplied by smallholder farmers².

¹ https://www.icco.org/wp-content/uploads/Production_QBCS-XLVI-No.-3.pdf

² Indonesian Cocoa Statistics Report, Badan Pusat Statistik, 2019

Cocoa is one of Indonesia's largest agricultural product exports, with exports in 2019 being over 358,000 tonnes valued at USD 1.2 billion.³ The largest importers are Malaysia, USA, India, China, and the Netherlands. Cocoa is also one of Indonesia's largest exports of agricultural products to Australia.

In recent years, the Indonesian cocoa industry has been facing challenges with declines in productivity, consistency of quality, and logistical issues associated with working across numerous smallholder farms participating in cocoa supply chains. Long-term demand for cocoa has trended upwards, however, it is important that the industry removes impediments to competitiveness if it is to retain, regain or expand its share in key overseas markets.

Katalis is seeking a firm to design an Agri-food (Cocoa) Export Pilot Project. The firm will consult with stakeholders and design a pilot project on developing Indonesian cocoa exports. The pilot project will focus on the export value chain from the Sulawesi region, with the insights and findings potentially shared with other regions in the future.

The consultation activity follows on from Katalis research and a Government of Indonesia (GoI)/Katalis workshop in October 2021, to identify the GoI's priorities for agricultural exports to Australia and the region (through powerhouse linkages) over the next five years. Cocoa was the highest priority identified at the workshop and was subsequently selected as a pilot project for Katalis to develop in collaboration with the business community and the GoI.

The cocoa sector is a national priority for Indonesia and achieving increases in cocoa exports could have sizeable economic benefits for all scales and types of businesses involved in the cocoa value chain. Global cocoa demand and trade have been adversely affected by the COVID-19 pandemic⁴ and the pilot project will help identify how Australia and Indonesia can collaborate to accelerate cocoa exports and support the economic recovery.

Through consultations, desktop research, and Focus Group Discussions (FGDs) the firm will identify the main impediments to overcome and/or the greatest opportunities where mutually beneficial collaboration between Indonesia and Australia would support a step-change in cocoa exports in the next five years. The work will be very much focused on identifying a business, business association, or other entity willing to engage in a pilot activity aligned to Katalis' investment criteria.

Gender, disability, and social inclusion (GEDSI) strategy and focus

The cocoa sector has been identified as a key Indonesian export that generates inclusive benefits for women and for SMEs involved in the supply chain. Importantly, smallholder farms are the predominant suppliers of cocoa for processing and export. The sector has also been identified by the GoI as having significant potential to increase women's participation. During the conduct of the activity, Katalis and the advisory firm will be alert for opportunities to enhance participation of persons with disabilities.

GEDSI analysis will be integral to the activity design and the firm will collaborate with Katalis's GEDSI team. It will be informed by the GEDSI principles and Katalis's GEDSI toolkit.

Scope of services

Under the leadership of the Market Integration Lead Adviser, the firm will:

1. Prepare a high-level situational assessment (10-15 pages maximum), draft and final reports that summarise information on recent cocoa production, market trends, forecasts, and exports
2. Prepare a list of cocoa value chain participants (in Indonesia and Australia and potentially third markets), such as farmers, processors, exporters and exporter associations, importers and

³ Indonesian Cocoa Statistics Report, Badan Pusat Statistik, 2019

⁴ [Choc waves: how coronavirus shook the cocoa market | Financial Times \(ft.com\)](#)

importer associations, and other business associations for engagement during the pilot project and ongoing Katalis business communications

3. Identify relevant Government Ministries, local government, and other programs and organisations which have a direct interest in the success of the Indonesian cocoa industry
4. Identify important issues and impediments impacting the competitiveness of cocoa exports to Australia and any measures that the government and the business community are now taking or planning in response
5. Identify opportunities for mutually beneficial collaboration between Indonesia and Australia to overcome impediments to growth in profitable cocoa exports that benefit all value chain participants
6. Identify and review plans, publications, regulatory reports, and policy statements in designing and implementing the pilot project
7. Conduct interviews with stakeholders and desktop research for gaining a deeper understanding of specific issues (e.g., specific impediments or opportunities) of interest
8. Collaborate with Katalis to plan, prepare for, and attend two FGDs (e.g., one with value chain firms and business associations and a second with government participants) that will inform the design of the pilot project
9. Provide tailored background briefings for Katalis prior to the FGDs and, if requested, contribute to Katalis briefings with government representatives
10. Provide documentation used for the two FGDs with cocoa stakeholders to extract insights for drafting of the cocoa pilot project Activity Proposal
11. Identify current and potential opportunities in cocoa value chains for female employment and leadership and people with disability
12. Consider the current and evolving role of SMEs in cocoa value chains and any market integration implications (e.g., skills) to incorporate in the pilot project design
13. Engage with Katalis Gender Equality, Disability and Social Inclusion (GEDSI) and Monitoring, Evaluation and Learning (MEL) staff for input and advice on activity development, designing and implementing evaluations and reporting.
14. Develop an Activity Proposal (Katalis Activity Proposal template is available upon request) that satisfies the Katalis investment criteria and would help with accelerating cocoa exports from Indonesia (Sulawesi) to Australia and/or other markets.
15. Other tasks as requested and agreed with the Katalis Market Integration Lead Adviser.
16. The Adviser will work closely with Katalis advisers in conducting the work and Katalis will support in organising the FGDs.

In addition to the activities and tasks specified above, the selected firm will, inter alia, have the following responsibilities:

17. Comply with timelines as agreed in the inception meeting
18. Carry out the services with due diligence and efficiency; and
19. Exercise such skill and care in the performance of the services as is consistent with recognized professional standards.

In addition to these formal responsibilities, the selected firm will be required to comply with all DFAT and Cardno policies, including Child Protection Procedures, and Prevention of Sexual Exploitation, Abuse, and Harassment (SEAH) Procedures. Any contractual offer will require criminal record clearance.

Outputs

The firm is expected to deliver the following outputs over the term of the contract to the satisfaction of the Market Integration Lead Adviser:

No	Deliverable	Deadline*
1.	Fraud Risks Assessment	One week
2.	Workplan re-confirming key deliverables and timeline, list of key stakeholders for engagement and risk management matrix.	One week
3.	Situational Assessment (report) in Katalis format including: <ul style="list-style-type: none"> Overview of the sector, constraints and opportunities, and risks to consider for the design of the cocoa exports pilot project list of key stakeholders interviewed, and publications reviewed 	Three weeks
4.	Documentation will be used for two Focus Group Discussions (FGDs) with cocoa stakeholders (e.g., one with value chain firms and business associations and a second with government participants) to extract insights for drafting of the cocoa pilot project Activity Proposal. The consultant shall submit: <ul style="list-style-type: none"> FGD agenda, key questions, list of participants, etc. Copy of the brief or presentation that was used during the FGDs Summary of findings and insights arising from the FGDs. 	Five weeks
5.	Draft Report , including: <ul style="list-style-type: none"> Succinct situation appraisal (10-15 pages) Proposed pilot project design and logic Main areas selected for mutually beneficial collaboration to resolve major impediments or capitalise on significant opportunities Annex with Cocoa Pilot Activity Proposal in Katalis format Annex with a list of people interviewed and participating in FGDs 	Six weeks
6.	Final Report , incorporating Katalis feedback and including: <ul style="list-style-type: none"> Succinct situation appraisal (10-15 pages) Proposed pilot project design and logic Main areas selected for mutually beneficial collaboration to resolve major impediments or capitalise on significant opportunities Annex with Cocoa Pilot Activity Proposal in Katalis format Annex with a list of people interviewed and participating in FGDs 	8 weeks
7.	Input Completion Report in a format supplied by Katalis and approved by the Market Integration Lead Adviser at the completion of the assignment.	10 weeks

* From date of contract signing

In addition to these formal deliverables, the position is expected to regularly communicate with Katalis staff on progress and seek input where required.

The selected firm is expected to deliver outputs consistent with the scope of services over the terms of the contract and to the satisfaction of the Katalis Market Integration Lead Adviser and the identified Partner. An Input Completion Report (ICR) will also be produced and submitted before the end of the contract.

Proposal evaluation

The proposal will be evaluated against the following selection criteria:

- Proposed methodology to undertake the work - 20% weighting
- An assessment of the technical skills to undertake the work including Bios/CVs of key staff - 40% weighting
- Experience of firm in undertaking similar work - 20% weighting
- A detailed financial proposal specifying personnel input costs, a detailed list of reimbursable costs (if any), overheads, profit margins, management fees - 20% weighting

A detailed Value for Money (VfM) assessment using DFAT's VfM guidelines (<https://www.dfat.gov.au/aid/who-we-work-with/value-for-money-principles/Pages/value-for-money-principles>) will also be conducted.

About Katalis

The Governments of Indonesia and Australia have entered into the Indonesia-Australia Comprehensive Economic Partnership Agreement (IA-CEPA), creating a framework to unlock the vast potential of the bilateral economic relationship. To support this ambition, the IA-CEPA includes a new program – IA-CEPA ECP Katalis (Katalis).

Katalis's goal is to maximise the benefits of IA-CEPA, support trade and investment, improve market access, and promote inclusive economic growth in Indonesia. The primary objective is to ensure the efficient and effective implementation of IA-CEPA to increase two-way trade and investment that is broad-based and inclusive.

Through a "Collaborative Hub", Katalis leverages existing Australian investments in Indonesia by working in partnership with other DFAT Programs, the whole of government partners such as Austrade, and other sectoral partners, to deliver new activities.

Katalis combines sound trade and development practice by supporting Indonesia to maximise the benefits of IA-CEPA, addressing regulatory challenges (through technical assistance), while resourcing innovative industry engagement in sectors of mutual interest; and by investing in standards, skills, and private sector development in new areas such as digital services and advanced manufacturing.

Attachment 2: Tenderer's Declaration

Deed of Declaration

I *[insert name]*, on behalf of *[insert Company Name]*, declare that:

[Company name] offer the services in the attached proposal at the prices quoted, upon and subject to the conditions of the Request for Tender.

Our offer remains open for acceptance by Cardno for a duration of ninety (90) days from the date of closure of tenders.

We have not prepared our application with the benefit of information obtained from a current or former employee of Cardno or the Client/Donor in circumstances that constitute a breach of confidentiality or fidelity on the part of that person, or with the benefit of information otherwise improperly obtained.

We are able to provide Technical Advisers as per our tender response for full duration of 9 months, as per the Terms of Reference.

We have disclosed below (to the best of our knowledge) any matter that may materially affect our performance of the contract, including but not limited to: any security, probity, or integrity issue, including current or pending investigations or enquiries by any government, law enforcement, or regulatory body; financial capacity and viability to perform the services.

Disclosure:

Signed:

Position:

Dated:

Attachment 3: Due Diligence Template

Due Diligence Preliminary Partner Statement

Tenderers/prospective grantees/sub-contractors must complete the Due Diligence Preliminary Statement as part of the Request for Tender (RFT) / Request for Proposal (RFP). This provides Cardno with an initial partner risk profile but is not part of the tender/proposal evaluation scoring.

The preferred tenderer/grantee will be required to complete a Due Diligence Assessment before a contract/grant agreement is signed. This must be supported by evidence that Cardno can verify.

The Due Diligence Assessment template should be included in the tender/proposal package for information only. It is used to form a risk assessment of the successful partner and, where necessary, to build additional safeguards into the activity agreement and implementation.

Details

Name of organisation			
Registration #		Country of registration	

Due Diligence Baseline Criteria: Preliminary Partner Statement

Due Diligence Criteria and Questions	Proposed Partner Response	
	Yes / No	List of evidence that may be checked if notified as preferred partner; or a brief statement if required
1. Entity Details		
The proposed partner confirms it is a legal entity.	Choose an item.	e.g. registration certificate and number; legal entity structure; board minutes; bank details.
2. Past Performance		
The proposed partner can demonstrate relevant past performance with good performance outcomes.	Choose an item.	e.g. list of previous relevant projects; annual reports; client performance assessment reports. It is expected the RFT will include comprehensive information in their proposal, so only brief information is required here.
3. Fraud Control / Anti-Corruption		

Due Diligence Criteria and Questions	Proposed Partner Response	
	Yes / No	List of evidence that may be checked if notified as preferred partner; or a brief statement if required
The proposed partner confirms it has measures in place to deal with the risk of fraud, bribery and corruption.	Choose an item.	e.g. fraud / ant-corruption policies, procedures and tools; financial policies; induction and training programs; conflict of interest policies and/or registers.
The proposed partner confirms it is willing to adhere to Cardno's fraud and anti-bribery policies.	Choose an item.	Note these can be made available upon request.
The proposed partner confirms it is not currently, nor has been over the last two years, the subject of a fraud or corruption related investigation by external parties (external parties may include national authorities including police, multilateral organisations and other donors or implementing partners).	Choose an item.	If the subject of a recent such investigation, include a brief statement on details.
4. Sanctions List / Counter-Terrorism		
The proposed partner confirms it (or any subsidiary or parent entity), nor any of its personnel, are not included on any national or international sanctions list (including but not limited to UKPTO: World Bank List ; ADB Sanctions List ; Australian National Security website ; DFAT's consolidated list ; UK's Proscribed Terrorist Organisations).	Choose an item.	If Yes to any, include a brief statement on details.
5. Integrity Systems		
The proposed partner confirms it has integrity systems in place to recruit/procure staff and suppliers that are qualified and of good character. This includes undertaking due diligence of its suppliers/contractors.	Choose an item.	e.g. recruitment and procurement policies and procedures; conflict of interest policies, criminal record checks.
The proposed partner confirms it has processes in place to ensure staff and any proposed partners are appropriately trained and performance managed.	Choose an item.	e.g. Code of Conduct; training programs; performance management policies and procedures; grievance procedure; whistle-blower policy.
6. Child Protection		
The proposed partner confirms it has policies and procedures in place to deal with the risk of child exploitation and abuse.	Choose an item.	e.g. child protection policy and procedures; Code of Conduct; child protection risk assessments.
The proposed partner confirms it is willing to adhere to Cardno's Child Protection Policy and Procedures.	Choose an item.	Note these can be made available upon request.
7. Safeguarding, including Preventing Sexual Exploitation, Abuse and Harassment		
The proposed partner confirms it has policies and procedures in place to deal with the risk of sexual exploitation, abuse and harassment.	Choose an item.	e.g. preventing sexual exploitation, abuse and harassment policy and procedures; Code of Conduct; sexual exploitation risk assessments.

Due Diligence Criteria and Questions	Proposed Partner Response	
	Yes / No	List of evidence that may be checked if notified as preferred partner; or a brief statement if required
The proposed partner confirms it is willing to adhere to Cardno's Preventing Sexual Exploitation, Abuse and Harassment Policy and Procedures.	Choose an item.	Note these can be made available upon request.
8. Security Arrangements		
The proposed partner confirms it has policies and procedures in place to manage security risks associated with its operations and will be responsible for the security arrangements of staff and suppliers/sub grantees within its control.	Choose an item.	e.g. security plan or procedures; subscriptions to travel/security provider/alerts.
The proposed partner confirms it is willing to adhere to Cardno's security policies, procedures and directions relevant to the activity.	Choose an item.	Note these can be made available upon request.
9. Work Health and Safety		
The proposed partner confirms it has policies and procedures in place to manage the health and safety risks associated with its operations and will be responsible for the health and safety of its staff and suppliers/sub grantees within its control.	Choose an item.	e.g. health and safety policies and procedures; relevant risk assessments; health and safety plans; workers compensation insurance policy; travel/medical insurance policies.
The proposed partner confirms it complies with the health and safety laws in the jurisdiction it is working in, and will comply with all relevant health and safety laws in the jurisdiction of this activity.	Choose an item.	e.g. Legal register; workers compensation policy.
The proposed partner confirms it is willing to adhere to Cardno's health and safety policies and procedures and will provide all reasonable assistance in any health and safety review or investigation.	Choose an item.	Note these can be made available upon request.
The proposed partner confirms it will take out all relevant insurances to cover its obligations if it is the preferred partner.	Choose an item.	e.g. certificates of currency for professional indemnity, public liability, workers compensation insurance, travel/medical insurance.

Declaration

I _____ [print name] _____ [print position title] declare the following:

I am duly authorised to provide this information on behalf of _____ [print organisation name] and the information provided is true and correct.

Name and Position	Signature	Date

Attachment 4: Template of Cardno Contract

Subcontractor Agreement

(updated DFAT terms)

Between

Cardno Emerging Markets (Australia) Pty Ltd
ACN: 006 170 869

and

Subcontractor

ACN #

Agreement Number: Agreement Number

Important:

- This template is to be used to engage subcontractors on projects where the Head Contract with DFAT is based on DFAT's new contract terms (post-September 2020) (e.g. KEIP and ECP). For other DFAT contracts (e.g. JSS4D, MAHKOTA) please use the alternative [DFAT Subcontractor Agreement Template](#).
- For advice on which contract template to use please refer to [QMS Contract Summary Table](#).
- Once contract is ready to be issued, turn track changes off, highlight all and press F9. This will update all cross-references and the table of contents
- This template is to be used only for contracting subcontractor companies (not individuals) on DFAT projects contracted under DFAT's new (Post September 2020) head contract terms.
- Notes in **red** are for information and are to be deleted as part of the review process noted below.
- This Agreement is to be reviewed in 'Track Changes' prior to being sent to the subcontractor.
- Notes in **blue** indicates information required / filled in
- The PSO must consult with the PD/PM when drafting **Schedule 4 Basis of Payment** wording, specifically around LTA/STA/Personnel Support Costs
- Additional Rules for Tenancy Refurbishments: All insurances MUST be provided to Cardno prior to any contract being signed (Group Legal requirement, and [Contractor Safety Booklet](#) to be tailored to project and sent as part of contracting package.

Cardno Emerging Markets (Australia) Pty Ltd

Level 4, 501 Swanston Street, Melbourne VIC 3000
Phone +61 3 8415 7777 | Fax +61 3 8415 7788
international.development@cardno.com
www.cardno.com/internationaldevelopment

Table of Contents

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Agreement Details

Do not alter Items 1–23 – If they are not relevant simply note 'Not Applicable'

Item No.	Description
Item 1 Agreement Number	#
Item 2 Project Title / Activity	Project Title and Activity Title (eg XXX Program / Baseline Study)
Item 3 Client	Commonwealth of Australia, Department of Foreign Affairs and Trade
Item 4 Contractor	Contractor including ACN or overseas equivalent business identifier
Item 5 Specified Contractor Personnel	Please refer to Schedule 4 of this Agreement
Item 6 Contractor's Contact Details	Name Tel Email address
Item 7 Partner Country	Partner Country
Item 8 Location	Location may include home base as well
Item 9 Start Date	On or about dd/mm/yyyy
Item 10 Finish Date	On or about End Date dd/mm/yyyy
Item 11 Term refer also Clause 1 Schedule 1	Term
Item 12 No. of Inputs refer also Clause 1 Schedule 1.	Inputs
Item 13 Contractor's Country of Registration	Contractor's country of registration
Item 14 Specified Personnel Point of Origin	Point of origin of Specified Contractor Personnel
Item 15 Cardno Manager	Relevant Business Unit Manager or Branch Manager
Item 16 Team Leader or equivalent	Team Leader (or equivalent)
Item 17 Project Director or equivalent	Cardno Project Director (or equivalent)
Item 18 Project Manager or equivalent	Cardno Project Manager or equivalent
Item 19 Project Support Officer	Cardno Project Support Officer
Item 20 Contractor's Manager	Contractor's Manager responsible for oversight of implementation of the Agreement
Item 21 Minimum Insurance Amounts and Coverage Period/s	Minimum Insurance Amount/s and Coverage Period/s
Item 22 Applicable Standards	(i) DFAT's Monitoring and Evaluation Standards, https://www.dfat.gov.au/about-us/publications/Pages/dfat-monitoring-and-evaluation-standards (ii) ISO 30405:2016 (Human resource management -- Guidelines on recruitment) (iii) ISO 30408:2016 (Human resource management -- Guidelines on human governance) (iv) ISO 15489 (Records management)
Item 23 Add as necessary or else delete this row	

Standard Terms and Conditions

1. The Parties

- 1.1 This Subcontractor Agreement sets out the terms and conditions under which Cardno Emerging Markets (Australia) Pty Ltd and ACN 006 170 869 engages **Contractor** and **ACN** to perform the Services in relation to the Project noted at **Item 2** of the **Agreement Details**. For the purposes of this Agreement, Cardno Emerging Markets (Australia) Pty Ltd will be referred to as 'Cardno' or 'we' or 'our' or 'us' and **Contractor** as 'Contractor' or 'your Personnel' or 'you' or 'yours' or 'they'.

2. The Agreement

- 2.1 This Agreement consists of:
- (a) the **Agreement Details**, which summarise details unique to this Agreement;
 - (b) the **Standard Terms and Conditions** on which we engage you; and
 - (c) the **Schedules**, which contain Project Specific and/or Donor Requested Terms and Conditions, Definitions and Interpretations, Scope of Services for the Assignment, Basis of Payment as well as other explanatory notes and documents as may be required by our Donor (**DFAT**).
- 2.2 Should this Agreement contain any discrepancy, ambiguity or inconsistency then the order of precedence of those documents forming this Agreement listed at **Clause 2.1** above shall apply to resolve the discrepancy, ambiguity or inconsistency.
- 2.3 For the purposes of this Agreement and unless the context otherwise requires:
- (a) a singular word includes the plural, and vice versa;
 - (b) a word that suggests one gender includes the other genders;
 - (c) where a word or phrase is defined, any other grammatical form of that word or phrase has a corresponding meaning;
 - (d) a reference to Cardno includes our Related Bodies Corporate within the meaning of the Corporations Act 2001, our successors and permitted assigns;
 - (e) a reference to Project includes Programs and vice versa;
 - (f) paragraph headings are for reference only and will not affect the interpretation of this Agreement;
 - (g) a reference to a person will be construed and taken to be a reference to an individual, partnership, body corporate, trust or governmental department or instrumentality (whether Federal, State or local) and whether incorporated or not;
 - (h) if an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing; and
 - (i) a reference to information is to information of any kind in any form or medium, whether formal or informal, written or unwritten, for example, computer software or programs, concepts, data, drawings, ideas, knowledge, procedures, source codes or object codes, technology or trade secrets.

3. The Assignment

- 3.1 You agree to satisfactorily perform the Assignment:
- (a) at the Location noted at **Item 8** of the **Agreement Details**;
 - (b) in accordance with the Scope of Services at **Schedule 3**;
 - (c) on the terms set out, and as amended by the Parties from time to time; and

- (d) with the level of care, skill, competence, and diligence expected of a professional experienced in carrying out the type of services required.

- 3.2 Unless otherwise stated in this Agreement, you and your Personnel acknowledge that this assignment is non-exclusive.
- 3.3 The Assignment will be undertaken in the name of Cardno and you and your Personnel will observe the professional standards which we require. You and your Personnel will not represent yourself as being an employee, partner or agent of Cardno, our Donor (**DFAT**), or of the Commonwealth of Australia.
- 3.4 You and your Personnel will complete the Assignment within the Term noted at **Item 11** of the **Agreement Details**. If the Assignment is not completed within the Term noted, you and your Personnel will continue to work without delay to complete the Assignment in accordance with this Agreement, however your entitlement to Remuneration will cease on expiry of the Term.
- 3.5 Where Cardno considers that a delay has arisen, in whole or in part, because of an act or omission on the part of Cardno, the Donor, or other actors outside the Contractor's reasonable control, Cardno may, by notice in writing to the Contractor, extend the time for performance of the relevant obligation of the Agreement to the extent of the delay.
- 3.6 You and your Personnel and any accompanying dependants agree to conduct yourself or themselves in a way that maintains friendly relations between us, our Donor, counterpart agencies, the government and people of the Partner Country. You will not make any public statement that may adversely reflect on us, our Donor, counterpart agencies or the government and people of the Partner Country.
- 3.7 You and your Personnel agree to comply with our procedures and instructions relating to the Project, working conditions, welfare and security.
- 3.8 You must immediately notify Cardno if you or your Personnel is:
- (a) subject to a change in control of its legal entity;
 - (b) on the DFAT Consolidated List, the Criminal Code Act List, the World Bank List or a Relevant List;
 - (c) subject to any proceedings or informal process that could lead to listing on the DFAT Consolidated List, the Criminal Code Act List, the World Bank List or a Relevant List;
 - (d) temporarily suspended from tendering for World Bank contracts by the World Bank, pending the outcome of a sanctions process;
 - (e) temporarily suspended from tendering by a donor of development funding other than the World Bank; and/or
 - (f) the subject of an investigation (whether formal or informal) by the World Bank or another donor of development funding.
- 3.9 You must:
- (a) notify Cardno immediately if you or your Personnel become aware of any security incident, Cyber Security Incident or security breach and comply with all Cardno directions to rectify the security issue, which may include notifying the Australian Cyber Security Centre of any other relevant body;
 - (b) participate in security reviews of your procedures at least annually as requested by Cardno and participate in any security audit in relation to the Agreement, providing full co-operation to Cardno or its independent auditors, including the Australian National Audit Office.
- 3.10 You must inform Cardno immediately if you become aware of any issue that may affect your performance of, or compliance, with this Agreement.

4. Basis of Payment

- 4.1 The Basis of Payment is set out in **Schedule 4**.
- 4.2 The Maximum Contract Value as set out in **Schedule 4** is fixed for the Term. This amount shall not be varied or changed in the event that an item that comprises the Fixed Management Fee or Reimbursable Costs in **Schedule 4** is subject to rise or fall in accordance with a change in law or other statutory obligation imposed on you.
- 4.3 Subject to **Clause 3.4** above, your entitlement to payment of the Maximum Contract Value begins on the Start Date and finishes at the expiration of the Term.
- 4.4 The Maximum Contract Value is inclusive of any overtime or penalty or other allowances payable by us to you or your Personnel.
- 4.5 Unless stated otherwise in **Schedule 4**, all payments made by us will be made in the currency of the Agreement between us and our Donor.
- 4.6 Allowances will be paid in accordance with the provisions set out in the Agreement.
- 4.7 We may adjust the payments under **Schedule 4** at any time if we reasonably believe that you or your Personnel have:
- (a) been delayed through Reasons Beyond Your Control;
 - (b) not performed any part of the Scope of Services in a timely and proper manner;
 - (c) otherwise failed to comply with your obligations; or
 - (d) been overpaid.
- 4.8 We may at any time offset any amount due for payment by us to you against any amount due for payment by you to us.
- 4.9 Unless agreed otherwise we will transfer payments in accordance with the Basis of Payment set out in **Schedule 4** to one bank account nominated by you.

5. Taxation and Income Tax

- 5.1 Unless agreed otherwise you are responsible for payment of any and all taxes, levies and other government charges that may apply within or outside your Country of Registration.
- 5.2 We will withhold funds from your payments under **Schedule 4** where required under the laws of Australia or another country.
- 5.3 You will indemnify us for any costs that we may incur in the Partner Country or your Country of Registration in relation to your failure to meet any assessment or penalty under any applicable tax legislation.

6. Medical, Dental, Evacuation and Travel Insurance

- 6.1 In connection with the performance of the Services, you or your Personnel must have and maintain during the Term the following valid and enforceable insurance policies:
- (a) adequate medical and dental insurance for persons who are engaged to operate outside their country of permanent residence;
 - (b) adequate insurance for medical evacuation and evacuation resulting from an insured event; and
 - (c) adequate general travel insurance.
- 6.2 You acknowledge that:
- (a) we are not qualified to advise you or your Personnel in relation to what vaccinations and medications may be necessary during this Assignment;
 - (b) you or your Personnel have sought their own medical advice from a qualified medical practitioner regarding vaccination and medical requirements which may be necessary during the Assignment;
 - (c) we will not be held liable for any failure or omission to inform you or your Personnel of any possible health risks which may affect them during the Assignment;
 - (d) where an act or omission of yours or your Personnel results in an insurer denying cover under any policy or causes any insurance to be

- voided, we will have no liability to you, or your Personnel, or any accompanying dependant persons for any loss or damage incurred;
- (e) you are responsible for any medical, hospital and dental expenses incurred as a result of injuries or accidents; **Check against Head Contract if provided under DFAT LTA, STA Personnel Support Costs.**
- (f) we will not be responsible for the payment of health insurance premiums or medical, hospital or dental expenses for you or your Personnel; **Check against Head Contract if provided under DFAT LTA, STA Personnel Support Costs.**
- (g) you are responsible for arranging all insurances relating to you or your Personnel, their dependants and property; and
- (h) you will be liable for the cost of all inoculations, vaccinations and medications, whether compulsory, recommended or otherwise.
- (i) You are responsible for the cost of any other medical, dental, evacuation and travel insurances you and your Personnel may require that are additional to those specified in this Agreement.

7. Expenses and Travel

- 7.1 We will reimburse you for those expenses listed in **Schedule 4** on the proviso that appropriate documentation of the expenditure (as required by us and/or our Donor and noted in **Schedule 4**) is provided with your invoice. No expenses other than those in **Schedule 4** will be reimbursed.

8. Resources and Computer Viruses

- 8.1 Unless otherwise advised by us, you must provide all necessary equipment to perform the services under this Agreement.
- 8.2 You will take all reasonable steps to ensure that all electronic data (e.g. disks, electronic mail and attached documents) sent to us whether using your own equipment, or equipment provided by the Project, or third party equipment are clear of any computer viruses or similar which could cause file and system attacks.

9. Subcontracting

- 9.1 You must not subcontract any part of this services without our approval.
- 9.2 We must obtain DFAT's prior written approval if you are to subcontract with any third party where the proposed subcontract is with a Related Entity. In granting approval under this **Clause 9.2**, DFAT may impose any conditions it considers appropriate.
- 9.3 If approval is granted you must not subcontract:
- (a) any part of the provision of the Goods and/or Deliverables to a person who is, or an entity, that is:
 - (i) on the DFAT Consolidated List, the Criminal Code Act List, the World Bank List or a Relevant List; or
 - (ii) directly or indirectly engaged in any terrorism-related.
- 9.4 Any subcontract entered into by the Contractor for the performance of any part of the Project must contain clauses:
- (a) that authorise the Commonwealth to publish details of the name of the subcontractor and the nature of the Goods and/or Services that the subcontractor is subcontracted to perform;
 - (b) under which the subcontractor assumes all the Contractor's obligations (including all obligations under Australian Law and development policies), and gives all the warranties the Contractor gives, under this Contract to the extent they are relevant to the Project the subcontractor is subcontracted to perform; and

- (c) that give the Contractor the right to terminate the subcontract for convenience as set out in **Clause 33.3**.
- 9.5 If you subcontract your performance of any part of the Project, you remain liable for the acts, defaults and omissions of the subcontractor as if they were your acts, defaults and omissions.
- 9.6 Any subcontract entered into by the Contractor for the performance of any part of the Project must contain clauses:
- that authorise the Commonwealth to publish details of the name of the subcontractor and the nature of the Goods and/or Services that the subcontractor is subcontracted to perform;
 - under which the subcontractor assumes all your obligations (including all obligations under Australian Law and development policies), and gives all the warranties the you give, under this Agreement to the extent they are relevant to the Project the subcontractor is subcontracted to perform; and
 - that give you the right to terminate the subcontract for convenience as set out in **Clause 33.3**.
- 10. Black Economy**
- 10.1 It is Commonwealth Policy to increase the integrity of government procurement, as listed in the procurement connected policy guidelines: *Black Economy – increasing the integrity of government procurement*.
- 10.2 You warrant in relation to any first tier subcontractor you engaged to deliver goods and/or services with an estimated value of over AUD4 million (GST inclusive) that you either:
- provided a valid and Satisfactory Statement of Tax Record for the subcontractor as part of your response for the approach to market that resulted in the entry of this Agreement; or
 - hold a Satisfactory Statement of Tax Record for the subcontractor that was Valid at the time of entry into the subcontract by you and the subcontractor;
- 10.3 If you are in a partnership, you will ensure that if a new partner joins the partnership that a valid and Satisfactory Statement of Tax Record for the partner is provided to you as soon as possible after they become a partner to the partnership.
- 11. Counter-Terrorism and Sanctions**
- 11.1 You must ensure that funds provided under this Agreement (whether through a subcontract or not) do not provide direct or indirect support or resources to:
- organisations and/or individuals associated with terrorism;
 - organisations and individuals for whom Australia has imposed sanctions under: the *Charter of the United Nations Act 1945 (Cth)* and regulations made under that Act; the *Autonomous Sanctions Act 2011 (Cth)* and regulations made under that Act or
 - organisations or individuals on the World Bank List or a Relevant List.
- 11.2 If during the term of this Agreement, you or your Personnel become aware or should have reasonably become aware that funds or resources have directly or indirectly been provided to organisations or individuals associated with terrorism, you must inform us immediately. Failure to inform us in accordance with this clause (or if we reasonably suspect that you have failed to inform us) will entitle us to terminate this Agreement immediately in accordance with **Clause 33**.
- 12. Contractor Personnel**
- 12.1 The Contractor must ensure that your Personnel are aware of, and must use its best endeavours to ensure your Personnel comply with, the requirements of the Agreement.
- 12.2 The Contractor must use its best endeavours to ensure that your Personnel are of good fame and character.
- 12.3 The Contractor must use its best endeavours to ensure that no Personnel or their accompanying family members:
- become involved in the political affairs of the Partner Country (unless citizens of the Partner Country);
 - interfere in the religious affairs of the Partner Country (unless citizens of the Partner Country); or
 - share information known as a result of their work on, or relationship to, the Project, in a way that a reasonable person could foresee may be detrimental to the relationship between the Australian and Partner Governments.
- 12.4 The Contractor must not engage a currently serving Commonwealth employee in any capacity in connection with the Services without the prior written approval of Cardno.
- 12.5 The Contractor must not engage a former DFAT employee in any capacity in connection with the Services unless DFAT has approved the engagement in writing.
- 12.6 The Contractor must ensure that media advertisements placed by the Contractor for personnel to fill a Project position acknowledge that the Project is funded by DFAT as part of the Australian Government's official overseas aid program.
- 12.7 Cardno or the Donor may give notice to the Contractor requiring the Contractor to remove any Personnel from work in respect of the Services. The Contractor must promptly arrange for the removal of such Personnel from work in respect of the Services and their replacement (if required) with Personnel acceptable to Cardno and the Donor.
- 12.8 The Contractor must advise Cardno promptly in writing of any change in the circumstances of any Personnel that, in the Contractor's reasonable opinion, is likely to affect Cardno's assessment of the person under the Contract.
- 13. Specified Personnel**
- 13.1 The Contractor must provide all Specified Personnel for the Project and for the minimum periods specified in **Schedule 3** and **Schedule 4**.
- 13.2 During the minimum periods specified in **Schedule 4**, the Long Term Advisers included in the Specified Personnel must be exclusively dedicated to the Project and only perform the duties required under this Agreement unless otherwise agreed in writing by Cardno.
- 13.3 The Contractor must use its best endeavours to secure the availability of Specified Personnel for the term of the Contract. If a change to Specified Personnel is required the Contractor must provide Cardno with not less than 3 months prior written notice of such change except where circumstances beyond the reasonable control of the Contractor make the giving of such notice impracticable. Any proposed change to the Specified Personnel must only be made after written consent from Cardno and the Donor and in accordance with the procedure set out in **Clause 13.7** below. Any advertising for new or replacement Specified Personnel engaged under this Subcontractor Agreement must adhere to DFAT's AusConnect guidance and may need to be advertised on the AusConnect Portal (<https://ausconnect.dfat.gov.au/>).
- 13.4 Subject to **Clause 13.3** above, Specified Personnel may be temporarily absent from the Project. Where Specified Personnel are unavailable for work in respect of the Agreement, for any period in excess of 2 weeks, the Contractor must notify Cardno in writing immediately and, if requested, must provide replacement personnel acceptable to Cardno and the Donor and the Partner Government at no additional charge and at the earliest opportunity and for the duration of the absence.

- 13.5 The costs incurred by the Contractor in providing temporary substitute personnel due to the absence of Specified Personnel are the responsibility of the Contractor.
- 13.6 The Contractor must advise Cardno promptly in writing of any change in the circumstances of any Specified Personnel that, in the Contractor's reasonable opinion, is likely to affect Cardno's assessment of the person under the Contract.
- 13.7 Before appointing Specified Personnel to the Project, the Contractor must obtain Cardno's written approval. In seeking approval of proposed Specified Personnel the Contractor must provide to Cardno:
- the full names, dates of birth, and nationalities of proposed personnel and their accompanying dependants;
 - a statement demonstrating that the proposed personnel has the demonstrated skills and capacity to undertake the job specification of the position and duration of the proposed appointment;
 - a copy of the proposed person's curriculum vitae certified as accurate by the person and showing recent and relevant experience and formal qualifications including dates of award; and
 - assurances that the nominated personnel has no existing commitments (defined in relation to the commitments of the position and not the individual's commitment to a particular organisation), to other Cardno projects that will suffer detriment if accepted on this Project. If this is not the case Cardno may require further information before assessing the individual's suitability.
- 13.8 If the Contractor is unable to provide acceptable replacement Specified Personnel with equivalent qualifications and experience Cardno may seek a reduction in fees.
- 13.9 This **Clause 13** is a fundamental term of the Contract, such that breach shall entitle Cardno to terminate the Contract in accordance with **Clause 33**.
- 13.10 You must keep detailed timesheets for your Personnel in a form to be approved by us.

14. Liaising and Reporting

- 14.1 Unless noted otherwise, all communication between you and us (including reports, general correspondence, or other materials) must be in the English language.
- 14.2 You must liaise with and report to our authorised representatives as detailed in this Agreement. You must inform us as soon as practicable if you encounter any actual or potential difficulties in performing the Services and provide details of your proposal to deal with the difficulties.
- 14.3 All written reports and other written documents must be delivered to us in both hard copy and electronic form. Unless notified otherwise, the electronic version must be in '.docx format'.
- 14.4 Reports, be they draft or final must not be forwarded directly to our Donor unless otherwise authorised in writing by us.
- 14.5 Unless otherwise agreed, on delivery of a report, we will have 30 calendar days to review the report for conformity with the requirements of this Agreement and we will advise you within that 30 calendar days of acceptance or rejection, including reasonably detailed reasons for rejection. If the report is rejected, you will have 14 calendar days after receipt of written notice identifying the non-conformities to re-write the report so that it conforms to the requirements of the Agreement. If you fail to correct the report and deliver a conforming report within 14 calendar days we may rewrite the report and charge you for any costs (including internal staff costs) incurred.

15. Intellectual Property

- 15.1 Subject to **Clause 15.1** and Donor requirements, the title to all Intellectual Property rights in or in relation to Contract Material shall vest upon its creation in the Donor. If required by the Donor, you must bring into existence, sign, execute or otherwise deal with any document which may be necessary to enable the vesting of such title or rights in the Donor.
- 15.2 **Clause 15.1** does not affect the ownership of Intellectual Property in any Pre-existing Contract Material incorporated into the Contract Material, but you grant to the Donor a permanent, irrevocable, royalty-free worldwide, non-exclusive licence to use, reproduce, adapt and otherwise exploit such Pre-existing Contractor Material in conjunction with the Contract Material. The licence granted under this **Clause 15.1** includes the right of the Donor, to sub-licence any of its employees, agents or contractors to use, reproduce, adapt and otherwise exploit the Pre-existing Contractor Material incorporated into the Contract Material for the purposes of performing functions, responsibilities, activities or services for, or on behalf of, the Donor. You must ensure that the Contract Material is used, copied, supplied or reproduced only for the purposes of this Contract.

16. Intellectual Property Rights Indemnity

- 16.1 The Contractor must at all times indemnify Cardno, the Donor and their employees and agents and the Partner Country ('those indemnified') from and against any Loss or liability whatsoever incurred by any of those indemnified or arising from any claim, demand, suit, action or proceeding by any person against any of those indemnified where such Loss or liability arose out of an infringement, or an alleged infringement, of the Intellectual Property Rights of any person, which occurred by reason of the performance or use of the Services.

17. Moral Rights

- 17.1 You agree that:
- you have provided consents and waivers, to the fullest extent possible under the laws of any applicable jurisdiction, in relation to your Moral Rights in any of the documents that have been or will be created from your work sufficient to ensure our Donor's continued unimpeded use of the documents assigned to our Donor or us as the case may be under this Agreement.
 - our Donor or we as the case may be or persons nominated by our Donor or us as the case may be and their assignees may do or omit to do any act in relation to the documents created by you without infringing the Moral Rights of any person; and
 - that you shall do all things requested by our Donor or us as the case may be to give full effect to paragraphs (a) and (b) above including, without limitation, signing or procuring the signature of particular forms.

- 17.2 You acknowledge that we have entered into this Agreement fully relying upon the acknowledgments and warranties given by you under this **Clause 17**.

- 17.3 This **Clause 17** shall survive expiration or termination of this Agreement.

18. Confidentiality

- 18.1 You and your Personnel must not disclose, duplicate, or make unauthorised use of any Confidential Information to any other person other than those individuals who need to have access to the Confidential Information to carry out the Agreement and then only if those individuals acknowledge confidentiality on the same terms as this **Clause 18**.
- 18.2 You must ensure that any of your Personnel or subcontractor personnel who may have access to the Donor's Information, complete an undertaking in the form set out as **Schedule 5** and maintain this.

18.3 This **Clause 18** will survive the termination of this Agreement.

19. Publicity

- 19.1 The Contractor must identify, and with prior Donor written approval and in accordance with DFAT *Logos and style guides* (<https://www.dfat.gov.au/about-us/corporate/Pages/logos-and-style-guides>) *Branding Australia Aid projects and initiatives*, implement appropriate opportunities for publicising the Project, including through signage at each Project site that acknowledges the funding of the Project.
- 19.2 The Contractor must not make any media or other announcements or releases relating to this Contract and the Services either during or after the implementation of the project without the prior approval of Cardno as to the form, content and manner of the announcement or release.

20. Privacy

- 20.1 In all of your dealings with Personal Information in connection with this Agreement you must:
- comply with and ensure compliance with your obligations under the Privacy Laws;
 - without limiting **clause 20.1(a)** conform with the obligations applicable to DFAT as if they were binding upon you; and
 - conform to the extent relevant in this Agreement, with the requirements of DFAT's published privacy policies (as amended from time to time) and Cardno's Privacy Policy.
- 20.2 You must, on reasonable request by Cardno, give Cardno access to any Personal Information acquired from Cardno or in connection with this Agreement.
- 20.3 Without limiting **Clauses 20.1 or 20.2** you must comply with any reasonable request by Cardno made for the purpose of ensuring either party's compliance with:
- obligations arising under the Privacy Laws;
 - any applicable guideline, recommendation, direction or determination issued by the Office of the Australian Information Commissioner (or such other privacy authority with jurisdiction over either party) or
 - DFAT's privacy policy.
- 20.4 You must:
- ensure that your employees, officers, contractors and agents who deal with Personal Information in connection with this Agreement are aware of and comply with your obligations under this Agreement in relation to such activities or practices; and
 - immediately notify Cardno if you become aware of a breach or possible breach of your obligations in relation to Personal Information under this Agreement.

21. Safeguarding Policies, Procedures and Codes

- 21.1 You must comply at all times with Cardno's and the Client's safeguard policies and procedures and codes of conduct as amended from time to time. Copies are available at the Location and upon request.
- 21.2 Where required your project personnel will be required to:
- Read and sign a policy and procedures acknowledgment pack prior to commencing an assignment on a Cardno site.
 - undertake induction and annual refresher training of Cardno policy and procedures

Reporting breaches

- 21.3 You must immediately report any breach or suspected breach of Cardno or Client safeguard policies to safeguards@cardno.com
- 21.4 Reporting mechanisms are also outlined in the safeguard policy and related procedures and include a third-party whistle-blower hotline mechanism.
- 21.5 You must inform us if any of your personnel working on a Cardno or Client activity are convicted of a crime,

accused of, charged with, arrested for, or convicted of any offences including, but not limited to, offences relating to child abuse or exploitation, slavery, human trafficking, sexual harassment, fraud or bribery, money laundering, conflict of interest, or any form of exploitation or abuse.

- 21.6 Cardno or the Client may require them to be suspended from duty or transferred to other duties during formal investigations relating to a policy breach.
- 21.7 Our safeguard procedures along with **Clause 22 Fraud and Anti-Corruption; Clause 23 Child Protection; Clause 24 Preventing Sexual Exploitation, Abuse and Harassment; Clause 25 Modern Slavery and Human Trafficking; Clause 26 Due Diligence and Clause 27 Conflict of Interest** are fundamental to the terms of this agreement. A breach shall:
- entitle us to take any action to the maximum extent permitted by law to prevent any breach by you and recover all and any damages from you; and,
 - entitle us to terminate this Agreement immediately without notice and make no compensation to you for such termination.
- 21.8 This includes breaches of this **Clause 21** and breaches relating to, but not limited to, the following safeguard policy and procedures:
- Safeguard Policy;
 - Cardno Way (Code of Conduct);
 - Fraud and bribery prevention;
 - Conflict of Interest;
 - Child Protection;
 - Preventing Sexual Exploitation, Abuse and Harassment;
 - Slavery and human trafficking.

22. Fraud and Anti-Corruption

- 22.1 You, your Personnel or subcontractors shall not make or cause to be made, nor receive, or seek to receive any offer, gift or payment, consideration or benefit of any kind, which could be construed as an illegal or corrupt act, either directly or indirectly to any party, as an inducement or reward in relation to the execution of this Agreement.
- 22.2 You, your Personnel or subcontractors shall not bribe public officials, including foreign officials. Any breach of this **Clause 22** shall be grounds for immediate termination of this Agreement.
- 22.3 Unless agreed otherwise in writing, within one week of commencing, the Contractor must conduct a Fraud risk assessment and produce a Fraud control strategy. The risk assessment strategy must contain appropriate fraud prevention, detection, investigation and reporting processes and procedures.
- 22.4 You, your Personnel and your subcontractors must:
- comply at all times with the Commonwealth Fraud Control Framework;
 - comply with any fraud control strategy implemented by us; and
 - immediately report fraudulent activity, including alleged, attempted, suspected or detected fraudulent activity, upon becoming aware of the fraudulent activity.
- 22.5 Our Client, or we, reserve the right to appoint its own investigator, conduct its own investigation or report fraudulent activity to the appropriate law enforcement agencies or any other person or entity our Donor, or we, deem appropriate in Australia or in the Partner Country for investigation. If our Donor exercises its rights under this **Clause 22**, the Contractor must provide all reasonable assistance that may be required as its sole expense.
- 22.6 You and your subcontractors must investigate any fraud at your own cost. Whether you or your subcontractor conducts an investigation or appoints an investigator to conduct an investigation, the person conducting the investigation must possess the minimum qualifications specified in the Australian Government Investigation

- Standards or an equivalent agreed to by Cardno or the Client.
- 23. Child Protection**
- 23.1 You, your Personnel and your subcontractors must comply at all times with Cardno's and our Client's Child Protection policies and procedures, including undertaking individual criminal records checks at your own cost.
- 23.2 You are responsible and accountable to us for preventing and reporting any child abuse or exploitation or suspected child abuse or exploitation as part of your routine responsibilities.
- 24. Preventing Sexual Exploitation, Abuse and Harassment**
- 24.1 You, your Personnel and your subcontractors must comply at all times with Cardno's Cardno's and our Client's Preventing Sexual Exploitation, Abuse and Harassment policies and procedures. A copy of this Policy is available at the Location and upon request.
- 24.2 You, your Personnel and your subcontractors are responsible and accountable to us for immediately reporting suspected or alleged cases sexual exploitation, abuse and harassment that relates to the Project.
- 24.3 You, your Personnel and your subcontractors are responsible and accountable to us for immediately reporting any alleged incidents of non-compliance with Cardno's and our Client's Preventing Sexual Exploitation, Abuse and Harassment policies and procedures.
- 25. Modern Slavery and Human Trafficking**
- 25.1 In signing this Agreement, you confirm that your organisation:
- (a) does not use any form of forced, compulsory, or slave labour;
 - (b) allows all Personnel to work voluntarily and they are entitled to leave;
 - (c) does not require any form of deposit or bond from Personnel;
 - (d) does not require Personnel to surrender their passports or work permits;
 - (e) requires your suppliers to attest to these standards;
 - (f) will report to Cardno any instances or suspicion of modern slavery or human trafficking in your organisation or your supply chain; and
 - (g) where required, provide information on your organisation's steps to reduce slavery risk for the purposes of Cardno's statutory reporting.
- 26. Due diligence**
- 26.1 Your organisation agrees to provide documentation and submit to questions required to satisfy Cardno's on-going due diligence process.
- 26.2 Your organisation will advise Cardno within one business day of any change that effects the due diligence assessment.
- 27. Conflict of Interest**
- 27.1 The Contractor warrants that, to the best of its knowledge after making diligent enquiries, no Conflict of Interest exists or is likely to arise in the performance of its obligations under this Contract by itself or by any of its Personnel.
- 27.2 The Contractor must notify Cardno promptly in writing if such a Conflict of Interest arises, or appears likely to arise.
- 27.3 Within 7 days after giving notice under **Clause 27.2**, the Contractor must notify Cardno in writing of the steps it will take to resolve the issue. If Cardno considers those steps are inadequate, it may direct the Contractor to resolve the issue in a manner proposed by Cardno.
- 27.4 If the Contractor does not comply with a direction issued by Cardno under **Clause 27.3**, Cardno may terminate this Contract in accordance with **Clause 33**.
- 27.5 During the period of this Agreement you must not, without our prior written approval, which will not be unreasonably withheld:
- (a) engage directly or indirectly in any business activity or professional activities in the Partner Country which is not directly related to this Agreement whilst performing service-related obligations under this Agreement;
 - (b) make use of any material acquired or created during the Term of this Agreement other than for the purpose of the Project; or
 - (c) advertise or publicise any association with us or DFAT or use the name, emblem, logo, or official seal of Cardno or DFAT in connection with your business or profession.
- 28. Waiver**
- 28.1 The failure, delay, relaxation or indulgence on the part of any Party in exercising any power or right conferred upon that Party by this Agreement does not operate as a waiver of that power or right, nor does any single exercise of any power or right preclude any other or further exercise of it or the exercise of any other power or right under this Agreement.
- 29. Indemnity**
- 29.1 You agree to indemnify and keep us indemnified, on a full recovery basis, for the direct consequences of any breach of this Agreement by you or any of your Personnel, or any failure by you or any of your Personnel to complete the Services to our reasonable satisfaction.
- 29.2 You agree to indemnify us and keep us indemnified on a full indemnity basis, against any and all costs, losses, expenses or damages which we incur or are liable for as a result of any unlawful, negligent, reckless or deliberately wrongful act or omission of you or any of your Personnel in carrying out the Services.
- 29.3 We agree to indemnify you and keep you indemnified on a full indemnity basis, against any and all costs, losses, expenses or damages which you incur or are liable for as a result of any unlawful, negligent, reckless or deliberately wrongful act or omission of us or any of our Personnel in carrying out the Services.
- 29.4 You and your Personnel accept all risks associated with travel that is associated with the Project and residing in the Partner Country and any issues arising out of or in connection with providing Services to the Project.
- 29.5 You must at all times indemnify Cardno and DFAT, our employees and agents and the Partner Country ('**those indemnified**') from and against any Loss or liability whatsoever incurred by any of those indemnified or arising from any claim, demand, suit, action or proceeding by any person against any of those indemnified where such Loss or liability arose out of an infringement, or an alleged infringement, of the Intellectual Property rights of any person, which occurred by reason of the performance or use of the Services.
- 29.6 This **Clause 29** shall survive the termination of this Agreement.
- 30. Negation of Partnership, Employment and Agency**
- 30.1 This Agreement operates as an engagement of you as an independent contractor only and does not constitute any other relationship such as partnership, employment or agency.
- 31. Variations to the Agreement**
- 31.1 The Parties agree and accept that the Services to be performed may be changed, increased or decreased, as directed by DFAT from time to time, and as a consequence this Agreement may be subject to change.
- 31.2 We reserve the right to change or modify allowances or policies in line with any changes to our own corporate policies or as required in connection with any changes imposed by a DFAT direction.

- 31.3 If either party notifies the other party that they wish to vary this Agreement, both Parties must use all reasonable endeavours to agree on the terms of such variations including any consequent changes in the total payment due to you.
- 31.4 Any amendment or variation to this Agreement must be in writing and signed by both Parties.

32. Suspension of the Agreement

- 32.1 We may suspend this Agreement where:
- (a) you or your Personnel are in breach of this Agreement;
 - (b) your Personnel take leave in excess of their entitlements noted in the Agreement Details; or
 - (c) the Assignment is delayed by Reasons Beyond Our Control.
- 32.2 If your Personnel are on unpaid leave or deviate from their agreed travel schedule without your prior approval, they will be deemed to be suspended until they return to the Location and resume the Assignment.
- 32.3 Where you or your Personnel are suspended from carrying out the Assignment due to illness or injury which requires your Personnel to be evacuated from the Location, they will not return to the Project until medically certified as fit to fully resume the Assignment. We will recommence payment in accordance with **Schedule 4** once your Personnel have returned to the Location and resumed the Assignment provided that it is possible for you to re arrange work schedules so that you are able to complete the Assignment within the Term or within a reasonable period after the expiration of the Term.
- 32.4 During periods of suspension and until the suspension is removed your Personnel shall not be entitled to payment of the Fee or any other benefits under this Agreement unless specifically agreed to in writing by us.
- 32.5 Where the Assignment is suspended and your Personnel's Accommodation is provided by us, they may not be permitted to remain in the Accommodation unless specifically agreed otherwise in writing by us.
- 32.6 Where the Assignment is suspended and your Personnel's Accommodation is reimbursed by DFAT, Cardno will cease reimbursing the cost of their Accommodation unless specifically agreed otherwise in writing by us.

33. Termination of the Agreement

- 33.1 Notwithstanding any other provisions in this Agreement, Cardno may terminate this Agreement at any time without notice if:
- (a) in our reasonable opinion, the performance of you or your Contractor Personnel on the Assignment is unsatisfactory;
 - (b) in our reasonable opinion, you or your Personnel have regularly or persistently failed to meet any, some or all requirements of this Agreement;
 - (c) in our reasonable opinion, you or your Personnel are incompetent or unable to proceed with the Assignment for any reason;
 - (d) in our reasonable opinion, you or your Personnel are guilty of negligence, misrepresentation, deceit, fraud or abuse or exploitation of children in the provision of the services or the performance of any work necessary to complete the services;
 - (e) the Contractor breaches a material term of this Agreement or fails to remedy a breach of any other term of this Agreement within the period specified by Cardno;
 - (f) you or your Personnel breach any legislation, rule or regulation in the performance, or attempted performance of the services;
 - (g) DFAT expresses serious dissatisfaction with your or your Personnel's performance or requests their termination;

- (h) you or your Personnel are convicted of an offence of, or relating to, bribery of a public official;
- (i) you or your Personnel are listed on a World Bank List or Relevant List or subject to any proceedings, or an informal process, which could lead to being listed or temporarily suspended from tendering for World Bank or other donors of development funds contracts, or subject to an investigation whether formal or informal by the World Bank or another donor of development funding;
- (j) you or your Personnel act in breach of this Agreement or in a manner contrary to the conditions of our Agreement with the Client;
- (k) an Insolvency Event occurs in respect of the Contractor;
- (l) you or your Personnel act in a manner contrary to the laws of the Partner Country.

- 33.2 We may at any time, by notice in writing, terminate this Agreement prior to the expiration of the Term where the:

- (a) DFAT cancels or amends the Project;
- (b) assignment or tasks to be performed are completed prior to the expiration of the Term;
- (c) project is delayed by Reasons Beyond Our Control;
- (d) conduct of the Contractor or your Personnel damages, or is likely to damage, Cardno's relationship with DFAT or Cardno's reputation;
- (e) Contractor is found or we form a reasonable belief that you are associated with or in any way connected with or providing funds or resources either directly or indirectly to organisations and/or individuals associated with terrorism.

- 33.3 Notwithstanding any other provisions in this Agreement, Cardno may terminate or reduce this Agreement for convenience if DFAT has given us notice of its intention to exercise its right to terminate or reduce the scope of its contract with Cardno from the time specified in that notice.

- 33.4 If Cardno exercises its right under **Clause 33.3**, the Contractor must:

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

- 33.5 If Cardno terminates or reduces the scope of this Agreement under **Clause 33.3**, Cardno will only be liable to the Contractor for the following loss or damage incurred as a direct consequence of termination or reduction in scope of this Agreement to the extent that they can be reasonably substantiated and are unable to be avoided or mitigated:

- (a) fees and any Reimbursable Costs, as payable under **Schedule 4** earned before the effective date of termination (on a pro-rata basis, if applicable);
- (b) lease termination costs for early termination of leases required specifically and exclusively for the performance of the Contract;
- (c) the Contractor's finance termination costs required specifically and exclusively for performance of this Contract;
- (d) to the extent not captured by paragraph (a), payments made to subcontractors procured in accordance with this Contract and which were payable for the provision of services prior to the date of notice of termination of this Agreement by Cardno; and
- (e) redundancy payments for Specified Personnel and any other individuals engaged by the Contractor solely for the purposes of the

- Project, provided the Contractor is legally obliged to make those payments, excluding all other loss or damage, including the costs of terminating any subcontracts, loss of profits and all other forms of expectation loss.
- 33.6 The Contractor must, in each subcontract, reserve a right of termination to take account of Cardno's right of termination under **Clause 33**, and the Contractor must make use of such rights to mitigate losses in the event of termination by Cardno under the provisions of **Clause 33**.
- 33.7 Subject to this Agreement, on expiry or termination:
- (a) the Parties are relieved from future performance of this Agreement, without prejudice to any right of action that has accrued at the date of termination;
 - (b) all licences and authorisations granted by either party under this Agreement terminate immediately unless the licence or authorisation provides to the contrary; and
 - (c) the Contractor must provide Cardno with all reasonable assistance and information to assist Cardno in transitioning to DFAT's new provision of project arrangements.
- 33.8 Cardno is not obliged to make any further payments to the Contractor (whether under this Agreement, at law or in equity) if Cardno exercises its rights in **Clause 33** except as expressly provided under **Clause 33.5**.
- 33.9 Immediately upon termination of this Agreement, the Contractor will cease to hold itself out as an independent contractor of Cardno.
- 33.10 Where you wish to discontinue to work under this Agreement and have given one month's notice in writing to us you agree to:
- (a) assist in an orderly transfer of work to your replacement; and
 - (b) leave the Project Office and vacate any Accommodation provided under this Agreement by the end of the notice period.
- 33.11 If this Agreement is terminated in accordance with **Clause 33**, you will leave the Project Office and vacate any Accommodation provided to you under this Agreement as soon as possible and within seven calendar days.
- 33.12 If this Agreement is terminated in accordance with **Clause 33** you acknowledge that:
- (a) we are not liable to pay you any compensation for early termination of the Assignment; and
 - (b) you waive any right to claim against us for early termination under **Clause 33.3** (to the extent permitted by law).
- 33.13 Termination by us is effective from the date specified in the written notice of termination sent to you.
- 33.14 You agree to indemnify us in respect of any direct, indirect or consequential costs, losses or expenses incurred by you in connection with the termination.
- 33.15 If your Assignment is suspended due to Reasons Beyond Our Control, you may terminate this Agreement immediately by giving notice in writing. On your termination your right to your Fee and all entitlements shall cease immediately and you shall not be entitled to any compensation claim for damages arising out of the consequence of termination.
- 33.16 Where this Agreement is terminated under **Clause 33**, we will only pay you for your services performed up until the date of termination.
- 34. Applicable Law**
- 34.1 The law of this Agreement is the law of the State of Victoria in the Commonwealth of Australia.
- 35. Continuing Obligations**
- 35.1 Where the Agreement has ended, whether by completion, termination or otherwise, **Clause 4 (Basis of Payment); Clause 15 Intellectual Property; Clause 17 Moral Rights; Clause 18 Confidentiality; Clause 20 Privacy; Clause 21 Fraud and Anti-Corruption; Clause 29 Indemnity; Clause 33**

Termination of the Agreement ; Clause 37 Resolution of Disputes; Clause 9 Access to Documents (Schedule 1), and Clause 11 Personnel Information (Schedule 1) will survive this Agreement and you and your Personnel will continue to be bound by them.

36. Severability

- 36.1 If any provision of this Agreement is illegal, void, invalid or unenforceable for any reason, all other provisions which are self-sustaining and capable of separate enforcement shall, to the maximum extent permitted by law, be and continue to be valid and enforceable.

37. Resolution of Disputes

- 37.1 In the event of any disagreement or dispute between both Parties arising in connection with this Agreement, both Parties agree to use best endeavours to reach an amicable settlement. If such a settlement cannot be reached within 30 calendar days from the occurrence of a dispute notified by either Party to the other, then all such disagreements or disputes shall be settled by arbitration exclusively according to the Laws of Victoria, Australia.
- 37.2 Any information or documents disclosed in connection with the resolution of the dispute must be kept confidential and may not be used except to attempt to settle the dispute or within the arbitral proceedings provided for in **Clause 37.1** above.
- 37.3 Both Parties will each bear their own costs of resolving a dispute under this **Clause 37** and will bear equally the costs of any third party engaged provided that such third parties have been engaged at the express request of both Parties.
- 37.4 Whilst we are both attempting to resolve the dispute you will continue to undertake your Assignment.

38. Specific Obligations

- 38.1 You and your Personnel will:
- (a) recognise the advisory nature of the work and will behave in a manner consistent with the fostering and maintaining of friendly relations between the Recipient Organisation, its personnel, us, and DFAT;
 - (b) not release or make any public statement concerning the Project without our prior written approval;
 - (c) respect and abide by the laws and regulations of the Partner Country and, unless a citizen of the Partner Country, will not become involved in the political or religious affairs of the Partner Country;
 - (d) comply with the instructions of our nominated representative, the Australian diplomatic mission in the Partner Country, or other authority as may be advised to you from time to time, regarding security, consular and welfare matters;
 - (e) comply with our requirements and that DFAT with respect to good behaviour, ethical and honest standards, and professionalism;
 - (f) take all reasonable steps to favourably represent ours and DFAT's interests; and
 - (g) take all reasonable steps to understand the environment and culture of the Partner Country.
- 38.2 You warrant that you and your Personnel:
- (a) will comply with the relevant and applicable laws, regulations, policies and guidelines, both in Australia and in the Partner Country. A list, as amended from time to time, of Australian laws and guidelines that may apply to the delivery of developmental aid to foreign countries can be found on DFAT's website: <https://www.dfat.gov.au/aid/australias-development-program>
 - (b) are of good fame and character;
 - (c) are properly qualified for the tasks you are required to perform;

- (d) have been certified 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 preventive medical

- (e) assistance allowing you to undertake work in-country in a safe manner; and will act in a fit and proper manner while carrying out work or performing duties under this Agreement.

Executed by the Parties as their Agreement:

SIGNED for and on behalf of CARDNO EMERGING MARKETS (AUSTRALIA) PTY LTD by a duly authorised officer		
Name & Designation (Block letters)	Signature	Date
In the presence of		
Name & Designation (Block letters)	Signature	Date
SIGNED for and on behalf of Subcontractor by:		
Name & Designation (Block letters)	Signature	Date
In the presence of		
Name & Designation (Block letters)	Signature	Date

Schedule 1 Project Specific / Donor Mandated Conditions

In addition to the Standard Terms and Conditions the following Project Specific / Donor Mandated Conditions apply.

If not using a schedule, please do not delete it, please insert 'Not applicable'.

Please look at these for relevance and consistency.

1 Duration of the Agreement

- 1.1 This Agreement does not become effective until:
- Where required by our Donor, we have written approval from DFAT for the implementation of this Agreement; and
 - the necessary clearances have been obtained from the government of the Partner Country; and
 - DFAT has approved you to act as our subcontractor, where required; and
 - DFAT has confirmed with us the Start Date of this Agreement; and
 - criminal records checks are satisfactorily completed or underway; and
 - this Agreement has been signed by you and us.
- 1.2 Provided these conditions are met, this Agreement starts on the Start Date noted at **Item 9** of the **Agreement Details** and will continue for the Term (refer **Item 11** of the **Agreement Details**) and the Finish Date noted at **Item 10** of the **Agreement Details** and continues until all obligations under this Agreement have been fulfilled unless terminated earlier in accordance with **Clause 33** of the Agreement. All mobilisation activities will be completed within one (1) month of your Start Date unless agreed otherwise in writing by Cardno. All demobilisation activities will be completed within one (1) month of your Finish Date unless agreed otherwise in writing by Cardno.
- 1.3 Subject to DFAT's approval, we may vary the Term by written agreement with you.
- 1.4 Where the Term is non-consecutive or consists of multiple inputs the dates and duration of future inputs will be agreed between you and us in accordance with **Clause 31** of the Agreement.

2 Public Holidays

- 2.1 Public holidays to be taken by your Personnel are those which are formally agreed with DFAT on an annual basis. Cardno will agree the public holidays with DFAT and advise you accordingly.

3 Invoicing

- 3.1 **Australian Companies Only** You must provide a proper Tax Invoice setting out the price of each category of Supply exclusive of GST (Goods and Services Tax) as well as the GST payable on each component of taxable Supply and the total GST-inclusive price of all supplies made in terms of this Agreement. **OR**
- 3.2 **Foreign or Non-Australian Companies** You must provide an Invoice setting out the price of each category of Supply.
- 3.3 Unless otherwise agreed by us, invoices submitted to us for services and reimbursable expenses that were incurred more than three months prior may be denied.

4 Receipts Required

- 4.1 In accordance with the requirements of DFAT you must provide original receipts / invoices for those Reimbursable items specified in **table X of Schedule 4**.

5 General

- 5.1 You agree to:
- ensure that the Services are provided to a standard which shall promote Australia's international reputation and standing as a reliable partner in the provision of international assistance;
 - promptly advise us of any significant risks;
 - liaise with, and obtain all necessary consents, approvals and authorisations from any public and other authorities in the Partner Country necessary to perform the Services;

- provide adequate support resources to secure the aims and objectives of the Project in relation to the required Services;
- be responsive to the changing needs and environment of the Partner Country;
- seek to improve the quality, effectiveness and efficiency of the Services at every opportunity; and
- ensure that you and your Personnel conduct themselves in accordance with DFAT's Code of Conduct, Cardno's Code of Conduct and Code of Conduct Supplement.

6 Insurance

- 6.1 Unless otherwise agreed in writing by us you are to maintain all insurances that a prudent contractor would maintain for this Agreement for the minimum amounts and coverage periods specified in **Item 21** of the Agreement Details, including but not limited to:
- worker's compensation with the minimum cover as required by law;
 - reasonable public liability, professional indemnity and product insurance to cover your obligations under this Agreement;
 - insurance for loss of or damage to parts and materials left or stored on DFAT's premises by the Contractor or its Personnel before use or installation; and
 - any other type of insurance as specified in the Agreement Details,
- and have a territorial and jurisdictional limit that includes Australia and all other locations where the Contractor will undertake work in connection with the provision of the Services.

- 6.2 In addition to your obligations in **Clause 6.1** above, you and your subcontractor must arrange and maintain insurance to cover:

- Construction Works against damage and destruction howsoever caused, fire, flood, earthquake, storm and extraneous perils; and
- the Contractor's or Subcontractor's plant and equipment against all risks.

- 6.3 You will provide a copy of a certificate of currency for the insurance policies listed in **Clause 6.1** and **Clause 6.2** at the commencement of this Agreement and on renewal of each policy. Failure to provide this will be grounds for termination.

- 6.4 All insurance cover must be valid for the Term of this Agreement, with professional indemnity insurance valid for three (3) years after the end date of this Agreement or earlier termination of this Agreement.

- 6.5 All insurance required to be maintained under **Clauses 6.1(a)** and **6.2** must:

- where applicable, be in the names of you, Cardno and DFAT;
- ensure that the insurer waives all rights of subrogation or action it may have against Cardno or DFAT;
- ensure that the insurer accepts the term 'insured' as applying to each of the persons covered by the policy as if a separate policy of insurance had been issued to each of them;
- ensure that any inadvertent non-disclosure or inadvertent inaccurate disclosure by a person covered by the policy does not prejudice the rights under the policy of the other persons/s covered by the policy; and
- ensure that the knowledge of one insured party will not be imputed to another insured party in

- assessing compliance with the applicable duty or duties of disclosure.
- 6.6 You undertake to use your best endeavours to ensure that you commit no act or omission which renders any of the insurances required by this Agreement to be null and void or of less value.
- 6.7 You are responsible for the payment of all excesses and deductibles of the insurances required to be maintained by you under this Agreement and all such insurance are primary insurances.
- 7 Novation**
- 7.1 If requested by Cardno or DFAT, you agree to provide to Cardno an executed Deed of Novation and Substitution in the form to be provided by Cardno.
- 7.2 You acknowledge that Cardno or DFAT retains the right upon issuing a Notice of Substitution under a Deed of Novation to further novate this Agreement to another Managing Contractor.
- 7.3 You acknowledge that, in the event of Cardno or DFAT issuing a Notice of Substitution, DFAT may substitute itself for Cardno in this Agreement as if our Donor was originally the party to this Agreement, instead of Cardno, and DFAT is so bound by and must fulfil, comply with and observe all of the provisions of this Agreement and enjoys all the rights and benefits of Cardno under this Contract.
- 8 Deed of Confidentiality**
- 8.1 You and your Personnel must not make public or disclose to any person any Confidential Information, without our prior written approval. In giving written approval, we may impose appropriate terms and conditions.
- 8.2 Your Personnel must complete a written undertaking in the form set out at **Schedule 5** and return this form to us prior to mobilising.
- 9 Access to Documents**
- 9.1 You acknowledge that if DFAT receives a request for access to a document created by, or in the possession of you or your Personnel that relates to the performance of the Project, DFAT may at any time by written notice require us to provide the document to DFAT, and we must promptly comply with the notice and you will comply with our request for access to that document.
- 9.2 This **Clause 9** shall survive expiration or termination of this Agreement.
- 10 Access to Contractor Premises, Data and Records**
- 10.1 Subject to reasonable notice, you agree that as appropriate DFAT, Commonwealth Auditor General, the Information Privacy Commissioner, Privacy Commissioner or Cardno, through their officers, agents or advisers, may:
- access your premises at no additional charge to either DFAT or Cardno;
 - require you to provide records and information in an easily accessible format;
 - examine, inspect, audit and copy documentation, accounts and records relating to this Agreement; and
 - require assistance in respect of any inquiry including, but not limited to a parliamentary inquiry into or concerning this Agreement.
- 10.2 In the case of documents or records stored on a medium other than in writing, you must make available on request such reasonable facilities as may be necessary to enable a legible reproduction to be created.
- 10.3 The requirement for and participation in audits does not in any way reduce your responsibility to perform your obligations under this Agreement.
- 10.4 The Donor and Cardno must use reasonable endeavours to ensure that such access as outlined in **Clause 10** does not unreasonably delay or disrupt in any material respect the Contractor's performance of its obligations under the Agreement.

11 Personnel Information

- 11.1 You agree that we give DFAT, upon request, a copy of this Agreement and/or the following information about your Personnel:
- position title;
 - full name;
 - date of birth;
 - email address;
 - nature of engagement;
 - discipline category;
 - job level;
 - gender;
 - nationality;
 - work location;
 - contract start and end date;
 - number of days worked in time period specified by DFAT preceding the receipt of the request;
 - monthly or daily fee remuneration rate;
 - Mobility Allowance, if any;
 - Special Location Allowance, if any;
 - Personnel Support Costs including Housing Cost, if any; and
 - any other information regarding remuneration or costs associated with Personnel and identified by DFAT in the request.
- 11.2 DFAT will use the Personnel Information to ensure that the Australian Government's official overseas aid program achieves value for money and to meet its reporting requirements.
- 11.3 You agree that DFAT may disclose the details of this Agreement and/or Personnel Information to Commonwealth governmental departments and agencies, Commonwealth Ministers and Parliamentary Secretaries, and to the Commonwealth Parliament.
- 11.4 Personnel are entitled to access their own Personal Information which is held by DFAT, unless DFAT has a lawful right to refuse access.
- 11.5 This **Clause 11** shall survive termination or expiration of this Agreement.
- 12 Performance Assessments**
- 12.1 You acknowledge and agree that Cardno or DFAT may issue performance assessments in relation to this Agreement. These may include subcontractor performance assessments, partner performance assessments, subcontractor key personnel performance assessments or Personnel performance assessments using:
- Cardno templates, available upon request, amended from time-to-time; or
 - where directed by DFAT, DFAT templates that are substantially in accordance with Partner Performance Assessments or Adviser Performance Assessments templates available on DFAT website, amended from time-to-time (<https://dfat.gov.au/about-us/business-opportunities/Pages/resources.aspx>).
- 12.2 You will:
- sign and return the performance assessments together with any response within 15 days of receipt; and
 - ensure that subcontractor personnel performance assessments together with any response any personnel wishes to include are signed and returned within 15 days of receipt.
- 12.3 You must insert clauses in any subcontracts relating to the Agreement that require the subcontractor to agree that:
- in relation to the subcontract, we or DFAT may issue:
 - a subcontractor performance assessment; or
 - subcontractor key personnel performance assessments.
 - the performance assessments will be substantially in accordance with Cardno templates, amended from time-to-time and

- available upon request; or DFAT templates, amended from time-to-time and available on DFAT website (<https://dfat.gov.au/about-us/business-opportunities/Pages/resources.aspx>).
- (c) the subcontractor will sign and return the subcontractor performance assessment together with any response within 15 days of receipt and will ensure that subcontractor personnel performance assessments together with any response any personnel wishes to include are signed and returned within 15 days of receipt.
- 13 Use of Contractor Confidential Information**
- 13.1 Subject to this **Clause 13**, Cardno or DFAT must not, without your prior written approval, make public or disclose to any person any Contractor Confidential Information.
- 13.2 We or DFAT may disclose matters relating to the Agreement, including the Contractor Confidential Information:
- to DFAT's advisers, officers, employees or subcontractors in order to manage this Agreement;
 - on request to other Commonwealth governmental departments and agencies;
 - to the responsible Minister;
 - in response to a request by a House or a Committee of the Parliament of the Commonwealth of Australia;
 - to the Australian National Audit Office or any other auditor appointed by DFAT;
 - to the Commonwealth Ombudsman;
 - if authorised or required by law to be disclosed; or
 - if required in connection with legal proceedings.
- 14 Records, Books and Accounts**
- 14.1 You must at all times maintain full, true, separate and up to date records, books and accounts in relation to the Agreement.
- 14.2 These records, books and accounts must:
- enable the prevention, detection and investigation of fraud;
 - be kept in a manner that permits them to be conveniently and properly audited; and
 - be maintained for at least 7 years from the date on which the records were created.
- 15 Audits**
- 15.1 We or DFAT may conduct audits relevant to the performance of and/or compliance with any of your obligations under this Agreement, including audits of your relevant:
- operational practices and procedures;
 - project and financial management governance;
 - oversight practices and procedures;
 - invoice and reports;
 - Material (including records, books and accounts) in your possession; and/or
 - other matters determined by us or DFAT to be relevant to the performance of your obligations.
- 15.2 Where we or DFAT has reasonable concerns regarding any item in **Clause 15.1**, we may provide you with written notification of those concerns and what action may be required including but not limited to, an independent audit conducted by a suitable organisation.
- 15.3 You are required to respond to any notice within 14 business days. If you do not respond, or your response does not alleviate our concerns, we may make further directions.
- 15.4 All directions under this clause will be undertaken by you, at your cost, and you must comply with any directions given by us or DFAT regarding the terms of reference or required auditing standards including the type of assurance required from the audit appropriate to the circumstances.

- 15.5 Where a direction has been made under **Clause 15.4** we may not make any further payments owed to you pending certification of the reliability of your management systems and the veracity of the invoicing procedures and practices and the eligibility of claims for payment.
- 15.6 This **Clause 15** applies for the term of this Agreement and for a period of 7 years from the date of its expiration or termination.
- 16 Work Health and Safety**
- 16.1 You and your Personnel agree to comply with the Work Health and Safety Act 2011 (Cth) (WHS Act) and all applicable work health and safety (WHS) laws, standards, policies and requirements of Cardno in regard to this Agreement.
- 16.2 You must ensure you and your Personnel are able to participate in:
- any necessary inspections of work in progress;
 - any necessary consultation with Cardno regarding implementation of the WHS Act provisions; and
 - tests and evaluations of the Goods and/or Services.
- 16.3 When using DFAT premises or facilities, you must comply with all reasonable instructions, policies and procedures relating to WHS and security in effect at those premises or in regard to facilities, as notified by DFAT or as might be reasonably inferred from the use to which the premises or facilities are being put.
- 16.4 We will provide you with information on Cardno and DFAT's WHS policies and procedures relevant to this Agreement. It is your requirement to keep yourself fully informed of these policies and procedures.
- 16.5 We will ensure, so far as is reasonably practicable, the health and safety of all workers and other persons on a Cardno controlled worksite.
- 16.6 You must ensure, so far as is reasonably practicable, that the health and safety of workers or other persons is not put at risk by your actions.
- 16.7 You must immediately inform Cardno of any actual or potential WHS or security issue. Where directed by us or DFAT, you agree to participate in any WHS incident reporting and investigation.
- 16.8 Without limiting any other provision of this Agreement you must, on request, give all reasonable assistance to Cardno or DFAT, by way of provision of information and documents, to enable us or the Client, as the case may be, to comply with duties imposed under applicable WHS legislation.
- 16.9 You agree that we may give DFAT, upon request, any relevant information about WHS issues and incidents that may contain information about you.
- 16.10 You acknowledge that Cardno may direct you to take specified measures in connection with your work under this Agreement that Cardno or DFAT 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. You must comply with any reasonable direction at your own cost.

17 Construction Services

Delete if no **tenancy refurbishment**. Only include this clause if tenancy refurbishment is being undertaken. Prior to any tenancy refurbishment, Group Legal must review the lease and provide advice on any liability provisions within it. For all other construction related work/activities AS4906 or AS4000 contracting templates must be used NOT this template. .Construction is defined as a project in which Cardno contracts to carry out some or all of the work necessary to implement or deliver physical infrastructure, whether directly or by subcontracting the work, as distinct from contracting with the Principal or the Principal's agent to manage, superintend or inspect the work of a contractor or contractors.

- 17.1 You must ensure that all construction design work is carried out:

- (a) in accordance with and so as to comply with any design brief or functionality requirements notified by us or DFAT;
 - (b) to a high standard of skill, care and diligence expected of a design professional; and
 - (c) to ensure that the design work is fit for its intended purpose.
- 17.2 You must ensure that all construction services have appropriate insurances included but not limited to construction works, public liability, professional indemnity and workers' compensation insurance and these insurances must:
- (a) where applicable be in the names of you, Cardno and DFAT;
 - (b) ensure that the insurer waives all rights of subrogation or action it may have against Cardno or DFAT;
 - (c) ensure that the insurer accepts the term 'insured' as applying to each of the persons covered by the policy as if a separate policy of insurance had been issued to each of them;
 - (d) ensure that any inadvertent non-disclosure or inadvertent inaccurate disclosure by a person covered by the policy does not prejudice the rights under the policy of the other persons/s covered by the policy; and
 - (e) ensure that the knowledge of one insured party will not be imputed to another insured party in assessing compliance with the applicable duty or duties of disclosure.
- 17.3 You must provide, upon request by us, the relevant insurance policies and certificates of currency and list of exclusions. Failure to provide this will be grounds for termination.
- 17.4 You are responsible for the payment of all excesses and deductibles of the insurances required to be maintained by you under this Agreement and all such insurance are primary insurances.
- 17.5 You must ensure that all Construction Work is carried out:
- (a) in accordance with Cardno or DFAT-approved plans and specifications;
 - (b) so that it is fit for its intended purpose;
 - (c) using good workmanship and, unless otherwise approved or specified, new materials;
 - (d) employing competent and appropriately qualified personnel; and
 - (e) in a manner which clearly seeks to achieve the aims of the Project.
- 17.6 If you engage specialist construction subcontractors to undertake construction work then you must obtain our written approval. The engagement of construction subcontractors shall not relieve you from any liability for the performance of this Agreement.
- 17.7 When engaging a construction subcontractor, you must undertake a competitive tendering process that complies with the *Commonwealth Procurement Rules* (CPRs) and DFAT's policy on applying the Mandatory Procedures in Division 2 of the CPRs.
- 17.8 If we reasonably consider that you have not adhered to appropriate processes or policies with respect to advertising for, or the evaluation of, tenders, we may require you to cancel the tender selection process. In such circumstances you may be required to repeat the competitive tender process at no additional cost to us.
- 17.9 You warrant that you will exercise a duty of care and good faith to Cardno and DFAT in performing your obligations under this Agreement including the preparation of all tender documentation and the administration of any construction subcontract, including ensuring that such subcontracts allow for the correction of any Construction Defects.
- 17.10 You must comply with Cardno's Contractor Safety Booklet, available from project location. **delete if not tenancy refurbishment**

18 Security

This clause should only be used should there be approved Tenancy Refurbishment, otherwise rename Clause 'Not Used' and delete all sub-clauses.

- 18.1 You agree that **xx% amend as appropriate but the minimum to be withheld is 10%** will be withheld by Cardno as security. This amount will be withheld from your final payment, in accordance with **Clause 18 and Clause 19.**
- 18.2 Cardno may have recourse to any security held by it under this Agreement where you fail to rectify any defect during the defects liability period or where Cardno incurs costs in rectifying defects in the construction services for which you are responsible. Cardno may have recourse to the security after it has provided five (5) Business Days written notice to you of its intention to have the recourse to the Security.
- 18.3 Cardno must release the amount of 50% of the security within 10 Business Days after the issuing of certificate of substantial completion (or equivalent), with the balance to be released on expiry of the defects liability period.

19 Construction Defects

Delete if no tenancy refurbishment.

- 19.1 The defects liability period will commence at 4:00pm on the day the certificate of substantial completion (or equivalent) is issued and will remain in place for a period of 12 calendar months **BUM approval is required this is Defect Liability Period is lowered** after the construction services are completed.
- 19.2 During the defects liability period, you must carry out rectification of defects:
- (a) at times and in a manner causing as little inconvenience to Cardno; and
 - (b) in accordance with all directions of Cardno.
- 19.3 If rectification is not carried out in accordance with Cardno's directions, Cardno may have the rectification carried out by others. The cost incurred by Cardno in having the rectification carried out may be certified by Cardno as money due and payable to Cardno. Any rectification work performed during the defects liability period shall be deemed to be work under the contract and will be subject to the same defects liability period from the date of completion of the rectification of the defect.

20 Use of appropriate building materials

Delete if no tenancy refurbishment. Only include this Clause if tenancy refurbishment is being undertaken. Prior to any tenancy refurbishment, Group Legal must review the lease and provide advice on any liability provisions within it. Any other construction related work/activities must not use this Subcontractor Agreement template, but instead use either the AS4906 or AS4000 contracting templates. Construction is defined as a project in which Cardno contracts to carry out some or all of the work necessary to implement or deliver physical infrastructure, whether directly or by subcontracting the work, as distinct from contracting with the Principal or the Principal's agent to manage, superintend or inspect the work of a contractor or contractors. This also includes project office renovation work.

- 20.1 You will use your best endeavours to ensure that:
- (a) any timber or other building materials used in any way for the Project has been sustainably harvested, or sourced from recycled building materials, and
 - (b) any supplies or building materials used in any way for the Project do not contain any asbestos.
- 20.2 This requirement is binding upon you and any subcontracts let as part of the Project.
- 20.3 You must include in each report certification that:
- (a) Supplies, or building materials used in any way for the project, including those used by subcontractors, are not made of or do not contain asbestos, and

- (b) any timber used in any way for the Project has been sustainably harvested; or is otherwise sourced from recycled building materials.
- 20.4 In the event that supplies, or building materials provided or used in any way for the Project by your subcontractor do not comply with the requirements of this **Clause 20** you must:

- (a) immediately upon becoming aware of the non-compliance, or
- (b) immediately upon receipt of a notice from us or DFAT, at your expense, replace the relevant supplies or materials.

Schedule 2 Definitions and Interpretations

These may be added to as necessary

Accommodation: Means the accommodation and terms of accommodation set out in **Schedule 4**.

Adviser: Means an individual who provides advice on the strategic direction or implementation of an international development assistance program and is engaged under this Agreement. This includes:

- (a) individuals who provide technical expertise and advice to counterpart governments and/or other in-country development partners;
- (b) individuals who provide technical advice to the Donor; or
- (c) individuals who provide leadership and oversight or technical inputs for the delivery of the Project;
- (d) individuals engaged by you as employees or subcontractors and individuals engaged by your subcontractors, but does not include:
- (e) locally engaged staff employed in non-specialist roles associated with this Agreement, including staff engaged in administrative or logistical roles; or
- (f) your head office staff or contractor managers.

Agreement: Means this Agreement including the recitals, schedules and annexures (if any).

Agreement Details: Means the summarised details noted at the front of this Agreement that are unique to this Agreement.

Applicable Standards: Means the standards specified at **Item 22** in the Agreement Details

Assignment: Means the Assignment or Project / Activity Title named at **Item 2** of the **Agreement Details** and described in **Schedule 3**.

Black Economy Procurement Connected Policy: means the Black Economy – increasing the integrity of government procurement: Procurement connected policy guidelines March 2019 available at www.treasury.gov.au/publication/p2019-t369466

Cardno: Means Cardno Emerging Markets (Australia) Pty Ltd ACN 006 170 869.

Cardno Manager: Means Cardno's Area Manager or Business Unit Manager or nominee named in **Item 15** of the **Agreement Details**.

Commonwealth: Means the Commonwealth of Australia.

Confidential Information: Includes:

- (a) any information that is identified as confidential in the Agreement Details; and
- (b) any other information:
 - (i) that is commercially sensitive (not generally known or ascertainable); and
 - (ii) the disclosure of which would cause unreasonable detriment to the owner of the information or another party; and
 - (iii) that was provided with an express or implied understanding that it would remain confidential, but does not include this Agreement (unless and to the extent it is identified as confidential in the Agreement Details) or information that:
- (c) is or becomes public knowledge other than by breach of this Agreement;
- (d) is in the possession of a party without restriction in relation to disclosure before the date of receipt; or
- (e) has been independently developed or acquired by the receiving party.

Conflict of Interest: Conflict of Interest is a situation in which the impartiality of a person in discharging their duties could be called into question because of the potential (perceived or actual) influences of personal considerations whether these are financial or other. The conflict in question is between official duties and obligations on the one hand, and private interests on the other.

Construction Defect: ~~delete if no tenancy refurbishment~~

Means any defect, fault, shrinkage or omission in any Construction Work or any other aspect of any Construction Work which is not in accordance with the Agreement requirements.

Construction Works: ~~delete if no tenancy refurbishment~~

Includes all the construction and building work of any kind including the installation of equipment required for the Project referred to in **Clause 18** of **Schedule 1**.

Contract Material: Means all Material created or required to be developed or created on or following the commencement of the term of this Contract as part of, or for the purpose of the Contractor performing the Services.

Contractor: Means the organisation named in **Item 5** of the **Agreement Details**.

Contractor Confidential Information means information that is by its nature confidential, but does not include this Agreement or information which is or becomes public knowledge other than by breach of this Agreement or any other confidentiality obligation.

Contractor's Manager: Means the Contractor's officer named in **Item 20** of the Agreement Details with responsibility for overseeing implementation of the Agreement.

Criminal Code Act List: Means the list of organisations that are specified as a 'terrorist organisation' through regulations made under the *Criminal Code Act 1995* as publicised on the Australian National Security website from time to time.

Cyber Security Incident: Means a single or series of unwanted or unexpected identified occurrences of a system, service or network state indicating a potential or actual breach of cyber security procedures, process or requirements and threatening security.

Deliverables: Means all materials developed or supplied by the Contractor in the course of providing the Goods or Services.

Dependent Child: Means a child under 21 years of age who is a natural, step- or adopted child of the Adviser, a child of the Adviser's Partner or a child for whom the Adviser is a legal guardian.

Dependents: Means a spouse or any dependent persons accompanying the Contractor's Personnel on assignment. Note definition of Dependents in this Agreement may be different to the definition of a dependent under any insurance policy.

DFAT Consolidated List: Means the list of all persons and entities subject to targeted financial sanctions or travel bans under Australian sanctions laws available on DFAT's website: <https://dfat.gov.au/international-relations/security/sanctions/Pages/consolidated-list.aspx>.

Donor: Means the Client named in **Item 4** of the **Agreement Details**.

Fraud: Fraud or 'Fraudulent Activity' means dishonestly obtaining a benefit, or causing a Loss, by deception, recklessness or other means, and includes alleged, attempted, suspected or detected fraud.

Goods: Means the parts, equipment, consumables or other items (if any) described in **Schedule 3**.

Goods and Services Tax: As defined in the *Goods and Services Tax Act, 1999*.

Head Contract: Means the Contract between Cardno and DFAT.

Insolvency Event: Means, in respect of a person, the appointment of, or an application made to a court for, an administrator, controller, provisional liquidator, trustee for creditors or in bankruptcy, or any analogous person, to the person or any of the person's property.

Intellectual Property: Means all present and future rights conferred by law in or in relation to any copyright (other than Moral Rights), trademarks, designs, patents, circuit layouts, plant varieties, business and domain names, inventions and Confidential Information, and other results of intellectual activity in the industrial, commercial, scientific, literary or artistic fields recognised in domestic law anywhere in the world, whether or not registrable, registered or patentable.

Location: Means the location where the Assignment is to be performed, set out in **Item 8** of the **Agreement Details**.

Long Term Adviser: Means an adviser working continuously for six (6) months or longer on the Project.

Loss: Includes any loss, damage, liability or obligation, compensation, fine, penalty, charge, payment, cost or expense (including any legal cost and expense on a solicitor and own client basis or a full indemnity basis whichever is greater) however it arises and whether it is present or future, fixed or unascertained, actual or contingent.

Material: includes property, equipment, information, visual data, documentation or other material in whatever form, including any software, reports, specifications, business rules or requirements, user manuals, user guides, operations manuals, training materials and instructions, and the subject matter of any category of Intellectual Property Rights.

Moral Rights: Means rights of integrity of authorship, rights of attribution or authorship, rights not to have authorship falsely attributed, and rights of a similar nature conferred by statute that may now exist or that may come to exist in relation to the work carried out on the Project.

Notice Addresses: For Cardno this means the addresses as noted on the front cover. For the Contractor this means the address set out in **Item 6** of the **Agreement Details**.

Parties: Means the two signatories to this Agreement.

Partner Country: Means the country or countries set out in **Item 7** of the **Agreement Details** in which the Project is to be performed.

Personal Information: Has the meaning in any applicable Privacy Law and if none means information or an opinion (including information or an opinion forming part of a database), whether true or not and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

Personnel (your Personnel): Means the Contractor's employees, officers, agents, contractors or subcontractors (including their respective personnel) and Personnel specified in **Schedule 3** and/or **Schedule 4**.

Personnel Information: Means the information requested by DFAT in accordance with **Schedule 1 Clause 11.1** Personnel Information may be Personal Information.

Point of Origin: This is the point from which you are contracted and from where you depart to commence the Assignment. In most cases, it will be a location in the Contractor's Country of Registration as specified in **Item 14** of the **Agreement Details**.

Project: Means the Project and Activity named in **Item 2** of the **Agreement Details**.

Project Director: Means Cardno's Project Director or nominee named in **Item 17** of the **Agreement Details**.

Project Manager: Means Cardno's Project Manager or Project Coordinator or nominee named in **Item 18** of the **Agreement Details**.

Project Office: Means Cardno's Project Office in the Recipient Country from which administrative matters relevant to the Project are handled by Cardno

Reasons Beyond our Control: This term may also be referred to as 'force majeure'. For the purposes of this Agreement, 'reasons beyond our control' means conditions beyond Cardno's reasonable control. This may include any act of God or terrorism, war, fire, flood, strikes, lockouts, delays in transport, breakdowns in machinery, restrictions or prohibitions by any government or semi-government authority, embargoes, or any conditions affecting Cardno's ability to comply with its obligations under its Head Contract with its Donor.

Recipient Organisation: Means the organisation or agency, whether a private entity or government agency that is the recipient of the services provided under the Agreement.

Related Entity: Means an entity:

- (a) that controls, or can materially influence, the Contractor's activities or internal affairs;
- (b) that has the capacity to determine or materially influence the outcome of the Contractor's financial and operating policies;
- (c) that is financially interested in the Contractor's success or failure or apparent success or failure;
- (d) in whose success or failure or apparent success or failure the Contractor is financially interested;
- (e) is a holding company of the Contractor;
- (f) is a subsidiary of the Contractor;
- (g) is a subsidiary of a holding company of the Contractor;
- (h) has one or more Directors who are also Directors of the Contractor;
- (i) where a familial or spousal relationship exists between any of the principals, owners, directors, officers or other like persons of that entity and any of the principals, owners, directors, officers or like persons of the Contractor; or
- (j) owned by an employee of the contractor, or in which an employee holds an interest.

Relevant List: Means any similar list to the World Bank List maintained by any other donor of development funding.

Remuneration: Means the remuneration set out in **Schedule 4**.

Satisfactory: Means meets the conditions set out in Part 6.b of the Black Economy Procurement Connected Policy or, if the circumstances in Part 6.c apply, the conditions set out in Part 8.b of the Black Economy Procurement Connected Policy.

Scope of Services: As noted at **Schedule 3** sets out your duties, responsibilities and obligations under this Agreement.

Services: Means Services to be performed under this Agreement and referred to in **Schedule 3**.

Short Term Adviser: Means an adviser working on the Project for less than six (6) months continuously.

Statement of Tax Record: Means a statement of tax record issued by the Australian Taxation Office following an application made in accordance with the process set out at: www.ato.gov.au/Business/Bus/Statement-of-tax-record

Supply: For the purposes of invoicing of GST, Supply includes all services and/or materials supplied under this Agreement.

Team Leader: Means the person named at **Item 16** of the **Agreement Details** or otherwise nominated by Cardno from time to time as being in charge of advisers, consultants and contractors working on the Project.

Valid: means valid in accordance with Part 7.e of the Black Economy Procurement Connected Policy.

World Bank List: Means a list of organisations maintained by the World Bank in its 'Listing of Ineligible Firms' or 'Listings of Firms, Letters of Reprimand' available on the World Bank's website at: <http://web.worldbank.org>.

Schedule 3 Scope of Services

These are generic and should suit most projects however please check to ensure that it is appropriate and relevant. Project Directors must ensure that ToRs adequately cover Cardno corporate requirements, not just Head Contract deliverables. Also check against position terminology and adjust where there may be no Team Leader or Project Director / Corporate Representative.

1. As a contractor on this Project you may work in a team with colleagues, counterpart agency staff, and our locally engaged staff. This will require you to establish and maintain harmonious and effective relationships and to undertake your duties to a high professional standard.
2. You will faithfully represent the best interests of Cardno in all matters when dealing with DFAT, counterparts, and team members.
3. You will be responsible to the Project Director through the Team Leader on site. **adjust for Australian Team leader or where there is no Team Leader or PD.**
4. You will undertake and complete the duties prescribed in the Specific Scope of Services. Completion will be within the specified time frame to achieve the Project's objectives and contractual milestones. Meeting milestones on time is a condition for satisfactory completion of your Assignment for payment purposes.
5. Your duties will include the preparation of reports and other documentation required to satisfy our contractual undertakings to DFAT. We will provide you with the required document formats. If amendments to reports are necessary you will be expected to make the changes promptly and to the required standard.
6. During your Assignment it could be expected that you will make presentations to us, Partner country agencies, DFAT and other agencies on matters related to your duties.
7. A completion report for your Assignment will be given to the Team Leader before departure from the Location. The report must be presented to the Project Director within two weeks of completing your Assignment on site. This report must be completed to the required standard prior to receipt of final payment. The report will be prepared in accordance with the specifications provided by the Team Leader. **modify for the Australian Team Leader or where there is no Team Leader or PD**
8. Your duties may be varied from time to time by the Team Leader **modify for the Australian Team Leader or where there is no Team Leader or PD** or Project Director to meet changing project needs. No changes shall be made unless agreed to by both Parties and reflected in a variation or amendment to this Agreement where necessary.

Specific Scope of Services

This section (to be inserted for each Agreement) will be as per the Scope of Services approved by DFAT. It will also specify or refer to specifications required for any report(s)

Schedule 4 Basis of Payment

1 Maximum Amount Payable

Project Manager/Director to amend as appropriate. Careful attention should be paid to ensure that these clauses accurately reflect the Head Contract

- 1.1 The maximum amount payable by Cardno to the Contractor shall not exceed the sum of **AUDxxxx** plus GST, if any to a maximum of **AUDxxxx**.
- 1.2 The maximum amount payable is comprised of the following elements:
- 1.3 Fixed Management Fee (see **Clause 2**); and
- 1.4 Reimbursable Costs:
 - (a) Personnel Costs (see **Clause 3**);
 - (b) Personnel Support Costs (see **Clause 4**);
 - (c) Operational Costs (see **Clause 5**).
- 1.5 Cardno shall not be liable for any Costs or expenditure incurred by the Contractor in excess of this amount.

2 Fixed Management Fee

Project Manager/Director to amend as appropriate. Careful attention should be paid to ensure that these clauses accurately reflect the Head Contract

- 2.1 The maximum amount payable to the Contractor as a Fixed Management Fee shall not exceed the sum of **AUDxxxx** (excluding GST).
- 2.2 The Fixed Management Fee is comprised of the items listed in **Tables below** are indicative only. These must be adapted, deleted, or modified as required to be consistent with our head contract, Client policy and any commercial terms agreed.
- 2.3
- 2.4 **Table 1** of this **Schedule 4**.
- 2.5 Cardno shall pay the Fixed Management Fee specified in as Milestone Payments in accordance with **Table 2** of this **Schedule 4**.
- 2.6 100% of the Fixed Management Fee will be paid to the Contractor in the form of Milestone Payments as shown in **Table 2** to this **Schedule 4** following written acceptance of the satisfactory completion of identified deliverables.
- 2.7 The criteria for 'satisfactory completion' of an identified deliverable will be as specified in **Table 2** to this **Schedule 4** as the 'Means of Verification'.
- 2.8 It is Cardno's corporate practice to inform Contractors as soon as reasonably possible, and in any case within 30 calendar days of receipt of notice of the completion of an identified deliverable or provision of a report whether or not that deliverable or report is accepted.
- 2.9 The Milestone Payment amount payable to the Contractor will be paid within 30 calendar days of Cardno's receipt of a correctly rendered invoice.
- 2.10 Where a Milestone Payment is to follow acceptance of a report, Cardno shall not be obliged to make payment until all of the outputs to be achieved by the Contractor in the period covered by the report have been achieved.
- 2.11 A payment by Cardno is not an admission of liability. In the event that Cardno makes a payment for the completion of a Payment Milestone or the procurement of Supplies or inputs that Cardno subsequently learns have not been completed to the quality or performance specifications required or provided as required, the payment shall be deemed an overpayment and recoverable from the Contractor. Without limiting recourse to other available remedies, the overpayment may be offset against any amount subsequently due to the Contractor.

3 Long Term Adviser Costs

Project Manager/Director to amend as appropriate. Careful attention should be paid to ensure that these clauses

accurately reflect the Head Contract and Basis of Payment, especially if payments are outputs rather than inputs based.

- 3.1 Cardno shall reimburse the Contractor at actual cost up to a maximum of **AUDxxxx** (excluding GST) for the Long Term Adviser Costs as specified in **Table 3** of this **Schedule 4**.
- 3.2 For each Long Term Adviser Cardno shall pay the Contractor, at the end of **each three (3) month period change duration as appropriate**, on a reimbursable basis in arrears within 30 calendar days of its receipt of a correctly rendered invoice, the following items:
 - (a) the Monthly Remuneration Rate for Long Term Advisers, inclusive of:
 - i. base salary;
 - ii. superannuation levy, if any;
 - iii. paid annual leave allowances as agreed by Cardno.
 - iv. any locally recognised public holidays;
 - v. private transport costs;
 - vi. allowances such as cost of living away from home, education, if applicable; and
 - vii. all escalators for the Term of this Agreement;
 - BUT exclusive of:
 - viii. any profit, overheads, administration or management fee, or any other mark-up/margins on the part of the Contractor;
- 3.3 Leave accrued during the assignment for Long Term Advisers shall be deemed to be taken in the 12-month period it falls due and cannot be accumulated.

4 Short Term Adviser Costs

Project Manager/Director to amend as appropriate. Careful attention should be paid to ensure that these clauses accurately reflect the Head Contract.

- 4.1 Cardno shall reimburse the Contractor at actual cost up to a maximum of **AUDxxxx** (excluding GST) for Short Term Adviser Costs as specified in **Table 4** of this **Schedule 4**.
- 4.2 For each Short Term Adviser Cardno shall pay the Contractor, at the end of **each three (3) month period change duration as appropriate**, on a reimbursable basis in arrears within 30 calendar days of its receipt of a correctly rendered invoice, for the following items:
 - (a) the Daily Remuneration Rate in accordance with the Position Description. The Daily Remuneration Rate for International and National Short Term Advisers shall be inclusive of:
 - (i) base salary;
 - (ii) superannuation levy, if any;
 - BUT exclusive of:
 - (iii) any profits, overheads, administration or management fee, or any other mark-up/margins on the part of the Contractor.

5 Adviser Support Costs

Project Manager/Director to amend as appropriate. Careful attention should be paid to ensure that these clauses accurately reflect the Head Contract and Basis of Payment, especially if payments are outputs rather than inputs based.

- 5.1 Cardno shall reimburse, at the **end of each three (3) month period change duration as appropriate**, the Contractor at actual cost up to a maximum of **AUDxxxx** (excluding GST) for Support Costs for Long Term Advisers and Short Term Advisers in accordance with **Table 5** of this **Schedule 4**, for the following items:
- 5.2 **Housing Costs:** expenses associated with accommodation for Long Term Advisers and any accompanying dependents. Long Term Advisers with

- spouses or partners who are already in receipt of an expatriate accommodation allowance will not be eligible to reimbursement for Housing Costs;
- 5.3 **Mobilisation/Demobilisation Costs:** for Long Term Advisers and any accompanying dependents including all reasonable one-off costs associated with mobilisation and demobilisation, and may include: any necessary medical clearances and inoculations; uplift of effects and temporary storage costs (not exceeding two weeks during the mobilisation/demobilisation period); and the cost of one return flight from home location for the Long Term Adviser and any accompanying dependents. DFAT does not reimburse costs for: storage of personal effects in the Adviser's point of origin; pet transportation and quarantine costs; anti-malarials or other ongoing medications; mail redirection; furniture, manchester or other household items.
- 5.4 **Airfares:** reimbursed at economy class. Any travel undertaken at cheaper rates (e.g. discount fares) does not entitle the Supplier to reimbursement of the cost of any higher class of travel. Travel must be via the most direct and cost effective route.;
- 5.5 **Hotel Accommodation:** reimbursed at lesser of actual cost incurred or amount specified, per 24-hour period;
- 5.6 **Travelling Allowance:** an agreed daily rate towards the costs of meals and incidentals;
- 5.7 **International Communication Costs:** an agreed rate for costs that are directly related to the Services;
- 5.8 **Compulsory Arrival and Departure Taxes, and Travel to and from Airport (e.g. taxi):** reimbursed at reasonable cost;
- 5.9 **Transport Costs:** which includes reasonable costs directly relating to the Services;
- 5.10 **Medical Insurance:** reimbursed at reasonable cost; and
- 5.11 **Security Costs:** any reasonable costs related to security for International advisers as approved by Cardno in writing.
- 5.12 This **Clause 5** excludes any Adviser Support Costs that are provided for under **Clause 7** below.
- 5.13 Funds may be moved between the different categories in **Table 5** for **Clause 5.1** above, with written approval from Cardno (no Agreement amendment required), provided the combined upper limit in **Clause 5.1** above is not exceeded.

6 Locally/Nationally Engaged Office Support Personnel

Project Manager/Director to amend as appropriate. Careful attention should be paid to ensure that these clauses accurately reflect the Head Contract and Basis of Payment, especially if payments are outputs rather than inputs based.

- 6.1 Cardno shall reimburse, at the end of each three (3) month period change duration as appropriate, the Contractor at actual cost up to a maximum of AUDXXX (excluding GST) for Locally/Nationally Engaged Office Support Personnel Costs in accordance with **Table 6**, including the following items:
- inclusive of base salary and any entitlements in accordance with local labour laws; and
 - inclusive of all escalators for the term of this Services Order; BUT
 - exclusive of any profit, overheads, administration or management fee, or any other mark-up/margins on the part of the ISP.
- 6.2 Leave accrued during the assignment for Locally Engaged Long Term Personnel shall be deemed to be taken in the 12 month period it falls due and cannot be accumulated.

7 Operational Costs

Project Manager/Director to amend as appropriate. Careful attention should be paid to ensure that these clauses

accurately reflect the Head Contract and Basis of Payment, especially if payments are outputs rather than inputs based.

- 7.1 Cardno shall reimburse the Contractor at actual cost up to a maximum of AUDxxxx (excluding GST) for Operational Costs as specified in **Table 7** of this **Schedule 4**.
- 7.2 Cardno shall pay the Contractor, quarterly change duration as appropriate on a reimbursable basis in arrears Operational Costs including the following items:
- Office rental
 - Utilities
 - Telephone
 - Internet
 - Office consumables
 - Vehicle Purchase
 - Vehicle Maintenance
 - Office equipment insurance
 - Website Maintenance/Hosting
 - Locally Engaged Staff Work Related Travel
 - Office Security
 - Equipment;
 - Training/Workshops;
 - Travel (accommodation etc.);
 - General Meetings (venue hire, food etc.);
 - Consumables (vehicles repairs, maintenance and insurance; fuel; ground transport; office consumables; publications etc.); and
 - Other costs as approved by DFAT.
- 7.3 Administration, equipment and operational costs are limited to the costs of setting up and running Program offices.
- 7.4 Funds may be moved between the different categories in **Table 7**, with written approval from Cardno (no Agreement amendment required), provided the combined upper limit in **Clause 7.1** is not exceeded.

8 Security

Project Manager/Director to amend as appropriate. This is to only be used for tenancy RefurbishmentCareful attention should be paid to ensure that these clauses accurately reflect the the same percentage in **Clauses 18 and 19**. The BOP tables must clearly incorporate the Security amount to be withheld.

- 8.1 Cardno will withhold xx% amend as appropriate but the minimum to be withheld is 10% as Security. This amount will be withheld from your final payment, in accordance with **Schedule 1 Clause 18 and Clause 19**.
- 8.2 Subject to Cardno's acceptance of the Certification of Substantial Completion, Cardno will release the amount of 50% of the Security within 10 Business Days, with the balance to be released on expiry of the Defects Liability Period.

9 Claims for Payment

- 9.1 The Contractor's tax invoice must be submitted when due pursuant to this **Schedule 4** in a form identifiable with the Services.
- 9.2 All tax invoices must include a certification by a Company director of the Contractor, or their delegate:
- that the invoice has been correctly calculated;
 - that the Services included in it have been performed in accordance with this Agreement; and
 - that the invoice is addressed to the Cardno Team Leader.
- 9.3 All claims for payment must be made out to:
- Project Name
Project Director / Project Manager / Team Leader (as appropriate)
Address
Country
Telephone: (+xx) xxx xxx xxx
Facsimile: (+xx) xxx xxx xxx

- 9.4 Tax invoices should be sent to the above address. Alternatively, Cardno will accept electronic tax invoices. These can be emailed to [email address](#).
 9.5 Invalid tax invoices will be returned to the Contractor. Information on what constitutes a valid tax invoice can be found at: <https://www.ato.gov.au/Business/GST/Issuing-tax-invoices/>

Tables below are indicative only. These must be adapted, deleted, or modified as required to be consistent with our head contract, Client policy and any commercial terms agreed.

Table 1: Management Fee Breakdown (for full Term of the Agreement) (Clause 2)

Item	Maximum Amount Payable (AUD)
Profits, including commercial margins and mark-up for personnel and project management	
Financial management costs, including the cost of an independent annual audit of the Project and financing costs, if any	
Costs of Contractor administrative and head office staff, including the cost of a Contractor Representative, if any	
Insurance costs as required by this Agreement, but exclusive of the costs of medical insurance for Advisers	
Taxation, as applicable	
Costs of complying with the Contractor's reporting and liaison obligations under this Agreement	
Costs associated with all personnel briefings in Australia or in-country	
Costs associated with any subcontracting and procurement of goods and services	
Costs, including domestic and international travel, accommodation, per diems, and local transport costs where required for all Contractor Head Office personnel	
Any other overheads required to perform the Services in accordance with this Agreement	
Recruitment costs	
All escalators for the Term of this Agreement	
Any allowance for risks and contingencies	
Professional development and training costs	
All other costs not specifically identified in this 0 (specify)	
TOTAL	

Table 2: Milestone Payments (Clause 2)

No.	Milestone Deliverable	Means of Verification	Due Date	Upper limits payable (AUD)
1				
2				
3				
4				
5				
TOTAL				

Table 3: Reimbursable Long Term Adviser Costs (if applicable) (Clause 3)

Position	Name	Inputs Up To (Months)						Remuneration Rate (AUD)						Upper Limits Payable
		Y1	Y2	Y3	Y4	Y5	Total		Y1	Y2	Y3	Y4	Y5	(AUD)
								Fee						
								Allowances (if any)						
								Fee						
								Allowances (if any)						
								Fee						

[illegible]

Table 4: Reimbursable Short Term Adviser Costs (if applicable) (Clause 4)

[illegible]

Short-term inputs for this table are assumed to be an average 26 'working days per month (and minimum of 5 working days per week). Days worked per month may vary if Short Term Advisers do or do not work on weekends and public holidays. If a Short Term Adviser works on a weekend or public holiday, that day is classified as a working day.

Table 5: Reimbursable Adviser Support Costs (if applicable) (Clause 5) Please check against Head Contract for applicability

No.		Item	No of units	Cost per unit (AUD)	Upper limits payable (AUD)
1		Housing Costs (LTA only)			
2		Mobilisation Costs			
3		Demobilisation Costs			
4		Airfares			
5		Hotel Accommodation			
6		Travelling Allowance			
7		International Communication Costs			
8		Compulsory Arrival and Departure Taxes, Travel to/from Airport (e.g. taxis)			
9		Transport Costs			
10		Medical Insurance			
11		Personnel Security			
		TOTAL			

Table 6: Locally/Nationally Engaged Office Support Personnel Costs (if applicable) (Clause 6)

[illegible]

¹ Fees to include any entitlements in accordance with local labour laws

TOTAL								

Table 7: Reimbursable Operational Costs (if applicable) (Clause 7)

Project Manager/Director to amend as appropriate. Careful attention should be paid to ensure that these clauses accurately reflect the Head Contract and Basis of Payment, especially if payments are outputs rather than inputs based.

No.	Item	No of units	Cost per unit (AUD)	Upper limits payable (AUD)
1	Office rental			
2	Utilities			
3	Telephone			
4	Internet			
5	Office consumables			
6	Vehicle Purchase (one)			
7	Vehicle Maintenance			
8	Office equipment insurance			
9	Website Maintenance/Hosting			
10	Locally Engaged Staff Work Related Travel			
11	Office Security			
12	Equipment			
13	Training/Workshops			
14	Travel (accommodation etc.)			
15	General Meetings (venue hire, food etc.)			
16	Consumables (vehicles repairs, maintenance and insurance; fuel; ground transport; office consumables; publications etc.)			
17	Other costs as approved by DFAT			
	TOTAL			

Schedule 5 Deed of Confidentiality

for DFAT Projects Only

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

BY name and address of Contractor and/or personnel ('Recipient').

RECITALS

- A. DFAT and Cardno Emerging Markets (Australia) Pty Ltd (the 'Client') have entered into a Contract for the purpose of a project, namely name of project in name of country.
- B. The Client has entered into a subcontract with name of Contractor (the Recipient) for the name of Activity on the name of project.
- C. The Recipient has been engaged by the Contractor to work on the project.
- D. The Recipient will, in carrying out that work, be given access to Confidential Information.
- E. 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:
- 1.2 '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; or
- 1.3 'Personal Information' has the same meaning as in the Privacy Act 1988.

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

EXECUTED as a deed poll:

SIGNED, by the Recipient:

)
)
)

In the presence of:

Signature of Witness

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
- 3.2 provide to the Commonwealth a statutory declaration of an officer of the Recipient stating that **Clause 3.1(e)** 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 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.

Signature of Recipient

Name of Witness
(print)

Schedule 6 Declaration of Status

Project Manager/Director to delete if not appropriate. Careful attention should be paid to ensure that these clauses accurately reflect the Head Contract and Schedule 4 (Basis of Payment), especially if payments are outputs rather than inputs based.

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

BY **insert name and address of Adviser** (the 'Adviser')

RECITALS

- A. DFAT and Cardno Emerging Markets (Australia) Pty Ltd ('Cardno') have entered into a Contract for the purpose of a project, namely **name of project (the Project)** in **name of country**.
- B. Cardno has entered into a subcontract with **name of Contractor** to provide the services of the Adviser on the Project.
- C. Cardno requires, where applicable, that your personnel declare their eligibility to receive allowances under the Head Contract.

THE ADVISER DECLARES AS FOLLOWS:

1 Interpretation

1.1 In this Deed:

'Partner' means a person who:

- (a) has a close personal relationship with an Adviser;
- (b) shares accommodation or housing with an Adviser; and
- (c) provides the Adviser with financial or domestic support.

'Dependant' means a person who:

- (d) has a close personal relationship with an Adviser;
- (e) shares accommodation or housing with an Adviser; and

- (f) who is provided with financial or domestic support by the Adviser.

'Dependant Child' means a child under 21 years of age who is a natural, step- or adopted child of the Adviser, a child of the Adviser's Partner or a child for whom the Adviser is a legal guardian.

2 Adviser Status

- 2.1 The Adviser **has/has not** relocated in-country from their permanent country of residence.
- 2.2 The Adviser **is/is not** accompanied by dependants.
- 2.3 The Adviser's dependants and/or partner **are/are not** in receipt of an expatriate housing allowance from the Commonwealth of Australia or any other employer.
- 2.4 The Adviser's dependants and/or partner:
 - (a) **are/ are not** currently employed by DFAT or on a DFAT-funded project; and
 - (b) **are/are not** in receipt of an allowance that recognises their accompanied status from the Commonwealth of Australia.
- 2.5 The Adviser **is/is not** accompanied by a Dependant Child/ren.
- 2.6 The Dependant Child/ren **is/is not** attending kindergarten through to year 12.
- 2.7 The Adviser acknowledges that he/she must provide proof of enrolment in a primary or secondary school for each Dependent Child in order to be eligible to receive Mobility Allowance Support.
- 2.8 The Adviser must inform Cardno promptly if their status as described in this **Clause 2** above changes.

3 Proof of Status

- 3.1 DFAT may, at any time, request the Adviser to give DFAT reasonable evidence to confirm the Adviser's status as described in **Clause 2** above.
- 3.2 If DFAT makes a request under **Clause 3.1** above, the Adviser must promptly comply with the request.

EXECUTED as a deed poll:

SIGNED, by the Adviser:

)
)
)

Signature of Adviser

In the presence of:

Signature of Witness

Name of Witness

(print)