



Australian Government

Department of Foreign Affairs and Trade

DFAT – Goods and Services Contract

Dated:

Commonwealth of Australia represented by the Department of Foreign Affairs and Trade (ABN 47 065 634 525) (**‘DFAT’**)

SMEC INTERNATIONAL PTY. LTD. (ABN 32 065 440 619)
(**‘Contractor’**)

FOR

**MANAGEMENT OF THE TRANSPORT SECTOR SUPPORT
PROGRAM – PHASE 2 (PAPUA NEW GUINEA)**

DFAT AGREEMENT NUMBER: 68980

CONTRACT made 20 day of November 2014.]

BETWEEN:

COMMONWEALTH OF AUSTRALIA represented by the Department of Foreign Affairs and Trade ("DFAT") ABN 47 065 634 525.

AND

SMEC INTERNATIONAL PTY. LTD., ABN 32 065 440 619 of Suite 2, Level 1, 243 Northbourne Avenue, Lyneham, ACT 2602 (the "Contractor").

RECITALS:

- A. DFAT requires the provision of certain Goods and/or Services for the purposes of the **Management of the Transport Sector Support Program - Phase 2 (Papua New Guinea)** (the "**Project**").
- B. The Contractor has expertise in the provision of the Goods and/or Services and has offered to provide the Goods and/or Services to DFAT subject to the terms and conditions of this Contract.

OPERATIVE:

DFAT and the Contractor promise to carry out and complete their respective obligations in accordance with the attached **Parts 1-7** and the Schedules.

Contract 68980

SIGNED for and on behalf of the
COMMONWEALTH OF AUSTRALIA
represented by the
Department of Foreign Affairs and Trade by:

in the presence of:

s 22(1)(a)(ii)

s 22(1)(a)(ii)

Signature of witness

s 22(1)(a)(ii)

s 22(1)(a)(ii)

Name of Delegate
(Print)

Name of witness
(Print)

SIGNED for and on behalf of
SMEC INTERNATIONAL PTY. LTD. by:

s 22(1)(a)(ii)

s 22(1)(a)(ii)

Signa

retary

s 22(1)(a)(ii)

Name of Director
(Print)

Name
(Print)

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STRUCTURE OF THE CONTRACT

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CONTRACT DETAILS

Parties:	DFAT and the Contractor				
DFAT:	The Commonwealth of Australia represented by the Department Foreign Affairs and Trade (ABN 47 065 634 525)				
Address:	Australian High Commission Level 4, Deloitte Tower, CBD PAPUA NEW GUINEA				
DFAT's (Management) Representative:	Contact Information:	s 22(1)(a)(ii) Port Moresby Post			
DFAT Escalation Representative:	Contact information	s 22(1)(a)(ii)		Port Moresby Post	
Contractor (Management) Representative:	SMEC International Pty. Ltd.		ABN: 32 065 440 619		
	Acting as Trustee:	N			
	Small Business:	N	Registered for GST:	YES	ABN:
Contractor's Escalation Representative:	Name:	s 22(1)(a)(ii)		Telephone: s 22(1)(a)(ii)	
	Position:				
	Street address:	Suite 2, Level 1, 243 Northbourne Avenue, Lyneham, ACT 2602			
	Postal address:	Suite 2, Level 1, 243 Northbourne Avenue, Lyneham, ACT 2602			
	E-mail address:	s 22(1)(a)(ii)		@smec.com	
Term	Start Date: 1 December 2014 End Date: 30 November 2017				
Option Period	Option/s up to a further two (2) years.				
Services	The Contractor will manage the Transport Sector Support Program (TSSP2) Phase 2 (Papua New Guinea) and will be responsible for administering the program, delivering capacity building and technical assistance for governance, providing support services and the secretariat for the Transport Sector Coordination Monitoring and Implementation Committee (TSCMIC), Quarterly Roads Maintenance Committee and TSSP Quarterly Review, and providing financial and procurement oversight for the program and reporting to DFAT. The Contractor will also support the Department of Works to manage the DFAT funded Project Management and Supervision Consultancy (PMSC) and manage the directly sub-contracted Bougainville PMSC, the Ramu Scoping and Design Study and the Manus Road Rehabilitation Project.				

STANDARD CONDITIONS

PART 1 – COMMON PROVISIONS

1. DEFINITIONS

1.1. In this Contract:

APS Code of Conduct refers to the code of conduct of the Australian Public Service available at www.apsc.gov.au.

APS Values refers to the values of the Australian Public Service available at www.apsc.gov.au.

Adviser means an individual who provides advice (including technical, leadership/oversight) on the strategic direction or implementation of the Project/ Program and is engaged under this Contract by the Contractor, but does not include locally engaged staff employed in non-specialist roles associated with this Contract (including staff engaged in administrative or logistical roles, Contractor's head office staff or contractor representatives).

Adviser Remuneration Framework means the set of rates and allowances for Advisers detailed in **Schedule 9** that will apply for the term of this Contract.

Associates means an organisation or organisations whom the Contractor identified in its tender for the provision of the Services as an associate or joint-venture or consortium member to provide the Goods and/or Services.

Authority includes any Australian Government (whether State, Territory, Commonwealth or Local Government) Ministry, department, government, governmental or semi-governmental authority, agency, instrumentality, council, corporation, utility or other legal entity.

Business Day any day that is not a Saturday, Sunday, public holiday or bank holiday in the ACT.

Changed Tax means a new or existing Commonwealth, State or Territory Government or Partner Country tax, duty or charge imposed or a change in an existing Commonwealth, State or Territory Government or Partner Country tax, duty or charge after the execution of this Contract.

Commencement Date is the date of execution of this Contract by the Parties.

Commonwealth means the Commonwealth of Australia or DFAT, as appropriate.

Commonwealth Grant Guidelines means the guidelines issued by the Minister for Finance that govern granting activities by Commonwealth agencies and departments. Details are available at: http://www.finance.gov.au/publications/fmg-series/docs/FMG23_web.pdf

Commonwealth Procurement Rules ('CPRs') means the Rules made in accordance with the Public Governance Performance and Accountability Act 2013 (Cth).

Confidential Information means the Confidential Information identified by the Parties at **Schedule 4** (Confidential Information) to this Contract.

Contract Material means all material brought into existence in the course of the Contractor's performance of this Contract, including documents, visual data, information, text and data stored by any means.

Contract means this agreement including the Details, Parts, Schedules and any Annexes (but not including headings).

Contractor Confidential Information means information that is by its nature confidential and/or is designated as confidential in **Schedule 4** (Confidential Information) but does not include this Contract or information which is or becomes public knowledge other than by breach of this Contract or any other confidentiality obligation.

Contract Details means the details set out in Contract Details table of this Contract.

Contractor Personnel means personnel either employed by the Contractor or Associates engaged by the Contractor or Associates on a sub-contract basis, including the Specified Personnel, or agents of the Contractor or Associates engaged in the provision of the Services.

Contract Management Group means the representatives nominated by DFAT and the Contractor as set out in the Contract Details table of this Contract.

Criminal Record Check means a check of an individual's criminal history record, conducted by the police or other authority responsible for conducting such checks.

Data includes any information provided by the Contractor under this Contract from any source, or collected or created by the Contractor in connection with the Services, whether in magnetic, electronic, hardcopy or any other form.

Daily Remuneration Rate has the meaning given in **Schedule 2** (Pricing Schedule).

Day/s means calendar days

DFAT means Commonwealth of Australia represented by the Department of Foreign Affairs and Trade.

DFAT Material means any Material created by DFAT, and/or provided by DFAT to the Contractor.

DFAT Representative means the person nominated by DFAT in the Contract Details.

DFAT Supplied Items means all items of equipment, materials and facilities owned or controlled by DFAT which the Contractor and its Personnel may procure or use in the course of providing the Goods and/or Services.

Disposal means disposal by an authority for the disposal of Commonwealth records in accordance with the *Archives Act 1983* (Cth).

Encumbrance means any security for the payment of money or performance of obligations, including a mortgage, charge, lien, pledge, trust, power or title retention.

Escalation Representative means the Representative appointed by either the Contractor or DFAT in accordance with **Clause 51** (Dispute Resolution).

Fees means the fees for the Services set out in **Schedule 2** (Pricing Schedule), not including Reimbursable Costs.

Force Majeure Event includes acts of god or war, pandemic, act of public enemy, terrorist act, civil unrest, nationalisation, expropriation, embargo, restraint of property by government, strike or other form of industrial dispute, provided that they are outside the reasonable control of the affected Party and could not have been prevented or avoided by that Party taking all reasonable steps.

Former DFAT Employee means a person who was previously employed by DFAT and whose employment with DFAT ceased within the last **nine (9)** months and who was substantially involved in the tender process, contractor selection, design, preparation, appraisal, review, major technical advice and/or daily management of the Activity.

Fraud or fraudulent activity means dishonestly obtaining a benefit, or causing a Loss, by deception or other means, and includes alleged, attempted, suspected or detected fraud.

General Interest Charge Rate means the general interest charge rate defined in the *Taxation Administration Act 1953* (Cth) on the day payment is due, expressed as a decimal rate per day.

Goods means the parts, equipment, consumables or other items (if any) described in **Schedule 1** (Statement of Requirements).

Independent Auditor means an auditing firm that does not have any affiliations with, and is not currently engaged by, the Contractor in any manner.

Intellectual Property means all intellectual property rights including copyright, and all rights in relation to inventions, registered and unregistered trade marks (including service marks), registered and unregistered designs and patents, and any other rights resulting from intellectual endeavour.

Long Term Adviser or LTA means an Adviser working continuously for **six (6) months** or longer on the Project.

Loss or Losses means any damage, liability, cost or expense including legal expenses.

Material includes property, equipment, information, data, photographs, documentation or other material in any 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.

Mobility Allowance means the supplemental payment payable to Long Term Advisers in addition to the Monthly Remuneration Rate in accordance with the Adviser Remuneration Framework.

Monthly Remuneration Rate has the meaning given in **Schedule 2** (Pricing Schedule).

Moral Rights means the rights of authors in relation to attribution and integrity of authorship or the right against false attribution.

MOU or Treaty means the Memorandum of Understanding or Treaty in relation to Development Cooperation, including any related Subsidiary Arrangement entered

into between DFAT and the Government of the relevant Partner Country, if any, which deals with the governmental arrangements applicable to this Contract.

NAA means the National Archives of Australia.

Partner Country means the country/countries in which the Services are to be delivered as specified in **Schedule 1** (Statement of Requirements).

Partner Government means the Government of the relevant Partner Country or Partner Countries.

Party means DFAT or the Contractor or a Department or Agency that has signed **Schedule 10** (Department/Agency Access Form).

Persistent Breach means **three (3)** or more breaches of the same Performance Standard as outlined in **clause 9** of the Standard Conditions or any performance standards outlined in **Schedule 1** (Statement of Requirements) in any Australian calendar year.

Personnel means the Contractor's officers, employees, agents, advisers, Contractors and subcontractors (including their respective personnel), and includes Specified Personnel and Associates.

Pre-existing Contractor Material means any Material developed by the Contractor that:

- (a) is in existence at the Commencement Date or is subsequently brought into existence other than as a result of the performance of the Contract, and
- (b) is embodied in, or attaches to, the Services or is otherwise necessarily related to the functioning or operation of the Services.

PGPA Act means the *Public Governance Performance and Accountability Act 2013* (Cth).

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

Information Privacy Commissioner means the person so named in the *Privacy Act 1988* (Cth).

Privacy Commissioner means the person so named in the Australian Human Rights Commission Act 1986 (Cth).

PAYG means *Pay As You Go Withholding Non-compliance Tax Act 2012* (Cth).

Project/Program means the Transport Sector Support Program – Phase 2 (Papua New Guinea)

Project Administration and Equipment means goods and services (such as office furniture, computers, vehicles, communications, utilities and office rent) required by the Contractor for the day-to-day administration of the Project/Program.

Project Specific Conditions means **Part 7** of this Contract.

Project Start Date means the date by which the Contractor must commence the Services.

Project Supplies means goods provided to the Partner Country by the Contractor during the course of the Project/Program as required by this Contract.

Record has the meaning given to the term in the *Acts Interpretation Act 1901* (Cth).

Recordkeeping means making and maintaining complete, accurate and reliable evidence of business transactions relevant to the Goods and/or Services provided under this Contract in the form of documents and other recorded information.

Reimbursable Costs means any costs incurred by the Contractor for which DFAT shall reimburse the Contractor as specified in **Schedule 2** (Pricing Schedule).

Relevant Employer has the meaning given to the term in the *Workplace Gender Equality Act 2012*(Cth) ('WGE Act').

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

Services means the Services described in the Contract Details, **Schedule 1** (Statement of Requirements) and the Contractor's other obligations under the Standard Conditions of this Contract.

Short Term Advisers or **STA** means Advisers working on the Project/Program for less than **six (6) months** continuously.

Small Business means an enterprise that employs less than the full time equivalent of **20** persons on the day that the Contract is entered into.

Specified Acts means the use, reproduction, adaptation or exploitation of Material in conjunction with the Contract Material.

Special Location Allowance means the country specific income supplement that is payable to Long Term Advisers in accordance with the Adviser Remuneration Framework.

Specified Personnel means the personnel listed as Specified Personnel in **Schedule 1** (Statement of Requirements).

Standard Contract Conditions means the provisions contained in **Parts 1-6** of the Contract.

Start Date means the date that the Contractor must commence provision of the Services in the Partner country.

Supplies means Project Supplies and Project Administration and Equipment purchased by the Contractor for use in this Project/Program.

Tax Invoice means a tax invoice which complies with the requirements under the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) ("GST Act").

Taxable Supply has the meaning it has under the GST Act.

Tender means the Tender submitted by the Contractor together with accompanying documentation as an offer to undertake the Services.

Third Party Issues means any issues or events which may affect the provision of the Goods and/or Services and which are within the control of a party other than DFAT, the Australian High Commission or Australian Embassy in or having responsibility for the Partner Country or the Contractor.

Third Party Material means any Material made available by the Contractor for the purpose of the Contract in which a third party holds Intellectual Property Rights.

Use includes run (in the case of software), copy, modify, adapt, develop, integrate or deal with in any other way.

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" posted at: <http://web.worldbank.org>

2. INTERPRETATION

2.1 In this Contract including the Recitals and Schedules, unless the context otherwise requires:

- (a) a reference to this Contract or another instrument includes any variation, amendment, novation, or replacement of any of them;
- (b) words in the singular include the plural and vice versa;
- (c) words denoting a gender include all genders;
- (d) a reference to a person includes a natural person and any type of body or entity whether incorporated or governmental, and any executor, administrator or successor in law of the person;
- (e) a reference to any legislation (including subordinate legislation) is to that legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
- (f) "shall" and "must" denote an equivalent positive obligation;
- (g) if a period of time is specified and dates from a given day or the day of an act or event, it is to be calculated exclusive of that day;
- (h) a reference to 'dollars', '\$' or AUD is a reference to Australian currency;
- (i) a reference to any Party to this Contract includes a permitted substitute or a permitted assign; and
- (j) if a word or phrase is defined, other parts of speech have a corresponding meaning.

2.2 No rule of construction shall apply in the interpretation of this Contract to the disadvantage of one Party on the basis that such Party put forward or drafted this Contract or drafted any provision of this Contract.

3. INCONSISTENCY

3.1 If there is any inconsistency (whether express or implied from the Contract or otherwise) between the **Standard Contract Conditions (Parts 1 – 6)** as applicable and a **Schedule** to the Contract, the Schedules are to be read subject to the **Standard Contract Conditions** and the relevant provisions of **Standard Contract Conditions** of the Contract prevail to the extent of the inconsistency unless explicitly amended in the **Project Specific Contract Conditions (Part 7)**.

3.2 If there is any inconsistency between Schedules, the following order of priority in interpretation applies:

- (a) the Statement of Requirements (**Schedule 1**);
- (b) the Pricing Schedule (**Schedule 2**); and

- (c) all other Schedules.
- 3.3 If there is any inconsistency between the contents of a Schedule in circumstances where the Schedule is made up of a number of sub-documents, the body of the Schedule will take priority over the sub-documents. The sub-documents have equal status.

4. CONTRACT TERM

- 4.1 This Contract commences upon execution by both Parties on the Commencement Date and continues for the Term as set out in the Contract Details or until all obligations under this Contract have been fulfilled, or this Contract is terminated, except for any clauses which survive termination.
- 4.2 The Contractor must commence provision of the Goods and/or Services by **1 December 2014** and complete the provision of Goods and/or Services by **30 November 2017** as set out in the Contract Details.
- 4.3 The Contractor grants to DFAT an option to extend the term of this Contract for a period of up to **two (2) years**. DFAT may exercise the option by notifying the Contractor in writing prior to the date of completion of the Services specified in **Clause 4.2**. If DFAT exercises the option, the Contractor must continue to provide the Services for the extended term on the terms and conditions contained in this Contract, except that this **Clause 4.3** shall no longer apply
- 4.4 Except to the extent referred to in this Clause, each Party must bear and is responsible for its own costs in connection with the preparation, execution and carrying into effect of this Contract.

5. SCOPE

- 5.1 This Contract sets out the terms and conditions on which the Contractor agrees to provide the Goods and/or Services and to secure the aims and objectives of the Project/Program as applicable.
- 5.2 The Goods and/or Services to be provided by the Contractor are detailed in **Schedule 1** (Statement of Requirements).
- 5.3 This Contract constitutes the sole and entire agreement between the Parties about its subject matter.

6. CONTRACTOR OBLIGATIONS

- 6.1 The Contractor must:
- (a) provide DFAT with the Good and/or Services as described in **Schedule 1** (Statement of Requirements) in addition to providing DFAT with any incidental Goods and/or Services to enable performance of this Contract;
 - (b) follow DFAT directions (including those issued by an Australian Embassy and High Commission) and cooperate with any third party appointed by DFAT to provide the Goods and/or Services including the provision of any reasonable assistance to third party providers of Goods and/or Services as DFAT may request;
 - (c) ensure the adequacy and lawfulness of any workers' compensation insurance for its Personnel, both in Australia, and in any relevant Country it operates in;

- (d) remain responsible for the payment of any taxes, or entitlements, other statutory charges and/or any other amount payable to its Personnel and agrees to indemnify DFAT in relation to any fine, penalty or other charge imposed on DFAT as a result of the Contractor's non-compliance with this **Clause 6.1**;
 - (e) assign all Advisers a Job Level and Professional Discipline Category in accordance with the Adviser Remuneration Framework and engage and remunerate Adviser's in accordance with the relevant classification specified in the Adviser Remuneration Framework; and
 - (f) ensure that Advisers provide a written declaration prior to confirming their eligibility for allowances under the Adviser Remuneration Framework. The written declaration shall be substantially in accordance with the declaration at **Schedule 8** (Declaration of Status).
- 6.2 The Contractor is responsible for all Goods (and the risk of loss or damage to such Goods) until DFAT accepts them and title passes to DFAT upon payment of the Contractor.

7. NON-EXCLUSIVITY AND VOLUME

- 7.1 The Contractor acknowledges that:
- (a) DFAT has no obligation to acquire any minimum volume of Goods and/or Services from the Contractor; and
 - (b) The Contractor may not be the exclusive provider of Goods and/or Services to DFAT similar to those provided under this Contract.

8. GOODS AND SERVICES TO OTHER AGENCIES

- 8.1 The Contractor may provide Goods and/or Services to any other Commonwealth Agency at its request provided it completes **Schedule 10** (Department/Agency Access Form).
- 8.2 Where a Contractor enters into an arrangement in accordance with **Schedule 10** (Department/Agency Access Form), the terms and conditions of this Contract will apply to the Contract entered into by that Commonwealth Agency.

9. PERFORMANCE STANDARDS

- 9.1 Where delivering the Goods and/or Services, the Contractor must at all times meet the performance standards outlined in this **Clause 9** and any performance standards outlined in **Schedule 1** (Statement of Requirements).
- 9.2 Where this Contract is for Goods they must be provided:
- (a) with due skill, care and diligence;
 - (b) to a high professional standard and in a timely manner; and
 - (c) in accordance with applicable law and obtaining all necessary export licence or other approvals necessary to provide the Goods.
- 9.3 Where this Contract is for Services they must:
- (a) be reasonably fit for their intended purpose;

- (b) be carried out in the most cost-effective manner and using materials suitable for the purpose;
- (c) be provided in compliance with all relevant Australian (or if none apply, international) and Partner Country industry standards, best practice, guidelines and codes of practice;
- (d) ensure any product resulting from the Services will be of such a nature and quality, state or condition that they can be reasonably expected to achieve their intended result;
- (e) be provided in a way that demonstrates the Contractor has sought to improve the quality, effectiveness and efficiency of the Services at every opportunity; and
- (f) where for Construction, in accordance with the design brief and/or functionality requirements and, using new materials unless otherwise specified.

10. WARRANTIES

- 10.1 The Contractor warrants that it does not have any judicial decision against it relating to employee entitlements (not including decisions under appeal), that has not been met in full by the Contractor.
- 10.2 If any judicial decision against the Contractor relating to employee entitlements occurs during the Term of the Contract, the Contractor must notify DFAT immediately.
- 10.3 The Contractor warrants that it has made its own assessment of all information made available to the Contractor in respect of the Services and sought all appropriate independent professional advice.
- 10.4 The Contractor warrants that it has full corporate power and authority to enter into, perform and observe its obligations under this Contract and that the execution, delivery and performance of this Contract shall be duly and validly authorised by all necessary corporate action.
- 10.5 Where the Contractor is a trustee, the Contractor warrants that it enters this Contract personally and in its capacity as trustee has the power to perform its obligations under this Contract.

Goods

- 10.6 In relation to Goods provided to DFAT, the Contractor warrants that the Goods:
 - (a) are of acceptable quality, are safe and durable;
 - (b) are free from defects in: design, performance, materials and workmanship;
 - (c) are fit for all the purposes for which goods of that kind are commonly supplied;
 - (d) comply with Australian (or if none apply, international) standards;
 - (e) will not be adversely affected in any way by any date-related issue; and
 - (f) are free of any Encumbrances.

- 10.7 The Contractor must ensure that DFAT obtains the full benefit of any third party warranties available for the Goods.

Services

- 10.8 In relation to the Services provided to DFAT by the Contractor under this Contract, the Contractor represents and warrants that:
- (a) its Personnel have the necessary experience, skill, knowledge, expertise and competence to perform the Services; and
 - (b) the Services or related products are free from defects in design, performance and workmanship and are safe and durable.

DFAT Property

- 10.9 The Contractor warrants that it and its Personnel will:
- (a) use in a proper manner and maintain in good order all DFAT Supplied Items which the Contractor and its Personnel may use in the course of providing the Goods and/or Services under this Contract; and
 - (b) promptly return all DFAT Supplied Items upon completion of use or otherwise upon expiry or termination of this Contract.

11. CONFLICT OF INTEREST

- 11.1 The Contractor warrants that, at the date of signing this Contract, no conflict of interest exists, or is likely to arise in the performance of its obligations under this Contract.
- 11.2 The Contractor must use its best endeavours to ensure that no Conflict of Interest arises in relation to the performance of any aspect of this Contract.

12. INSURANCES

- 12.1 The Contractor must arrange and maintain for the Term of the Contract unless otherwise specified:
- (a) Public Liability insurance with a limit of at least ^{s 22(1)(a)(ii)} for each and every claim which covers Loss of, or damage to, or Loss of Use of any real or personal property and/or any personal injury to, illness or death of any person arising from the performance of the Contract;
 - (b) Motor vehicle third party property damage insurance;
 - (c) Workers' Compensation insurance in accordance with **Clause 6.1 (c)** which:
 - (i) fully insures the Contractor for any amount it becomes liable to pay under any statute relating to workers' or accident compensation or for employer's liability at common law;
 - (ii) is effected in the Partner Country as well as every state or territory in Australia where its Personnel normally reside or in which their contract of employment was made; and
 - (iii) where possible at law, extends to indemnify DFAT as principal for DFAT's liability to persons engaged by the Contractor.

- (d) adequate property insurance covering any Contract Material, Supplies and the reinstatement of any Data while in the care, custody or control of the Contractor for its full replacement value;
 - (e) adequate Professional Indemnity insurance to cover the Contractor's obligations under this Contract. The Contractor must maintain the necessary insurance each year until the expiration of **three (3)** years after the full Term of the Contract or earlier termination of the Contract;
 - (f) adequate medical and dental insurance for its Personnel who are engaged to operate outside their country of permanent residence; and
 - (g) adequate insurance for medical evacuation and evacuation resulting from an insured event for all its Personnel.
- 12.2 Where there is no workers compensation legislation in force in the Partner Country, the Contractor should arrange adequate personal accident and illness insurance (accidental death and weekly benefits) for any of its Personnel not otherwise covered for the Term of the Contract.
- 12.3 The Contractor must, within fourteen (**14**) **Business Days** after a request by DFAT, provide for any insurance policy: a certificate of currency, a list of exclusions; and the amount of excess payable.
- 12.4 Where any policy is to be cancelled, or the level of cover reduced, the Contractor must give DFAT at least fourteen (**14**) **Business Days** prior notice of the cancellation.
- 12.5 Neither the arrangement and maintenance of insurance nor any failure to arrange and maintain such insurance shall in any way limit, reduce or otherwise affect any of the obligations, responsibilities and liabilities of the Contractor under the other provisions of this Contract or at law.
- 12.6 Failure by the Contractor to maintain all necessary insurances will entitle DFAT to terminate this Contract immediately in accordance with **Clause 53** (Termination for Breach).
- 12.7 In the event of an insurance claim any deductible or excess payable will be the responsibility of the Contractor.

13. INTELLECTUAL PROPERTY RIGHTS

- 13.1 This **Clause 13** does not affect the ownership of the Intellectual Property Rights in any Pre-existing Contractor Material or Third Party Material.
- 13.2 The Contractor must obtain all necessary copyright and other Intellectual Property Rights permissions before making any Pre-Existing Contractor Material or Third Party Material available as a part of the Services.
- 13.3 All Intellectual Property Rights in the Contract Material vest in DFAT on creation.
- 13.4 To the extent that:
- (a) DFAT needs to use any of the Pre-Existing Contractor Material or Third Party Material to receive the full benefit of the Services, the Contractor grants to, or must obtain for, DFAT, a perpetual, world-wide, royalty free, non-exclusive licence (including the right to sublicense) to use, reproduce, adapt,

- modify and communicate that Pre-Existing Contractor Material or Third Party Material; or
- (b) the Contractor needs to use any of the DFAT Material, or Contract Material, for the purpose of performing its obligations under this Contract, DFAT grants to the Contractor for the term of this Contract, subject to any conditions or restrictions specified by DFAT, a world-wide, royalty-free, non-exclusive, non-transferable licence (including the right to sublicense) to Use, reproduce, adapt, modify, distribute and communicate such Material solely for the purpose of providing the Services.
- 13.5 The licence granted to DFAT under **Clause 13.4** (a) does not include a right to exploit the Pre-Existing Contractor Material or Third Party Material for DFAT's commercial purposes.
- 13.6 The Contractor must deliver all Contract Material to DFAT or to the Partner Government counterpart agency as may be directed in writing by DFAT.
- 13.7 The Contractor warrants that:
- (a) the warranted Materials and DFAT's use of those warranted Materials, will not infringe the Intellectual Property Rights or Moral Rights of any person, and
- (b) it has the necessary rights to vest the Intellectual Property Rights and grant the licences as provided in this **Clause 13**.
- 13.8 If a third party claims, or DFAT reasonably believes that a third party is likely to claim, that all or part of the warranted Materials infringe their Intellectual Property Rights or Moral Rights the Contractor must, in addition to the Contractor's obligation under **Clause 14** (Indemnities) and to any other rights that DFAT has against the Contractor, promptly, at the Contractor's expense:
- (a) secure the rights for DFAT to continue to use the affected warranted Materials free of any claim or liability for infringement; or
- (b) replace or Modify the affected warranted Materials so that the warranted Materials or the use of them does not infringe the Intellectual Property Rights or Moral Rights of any other person without any degradation of the performance or quality of the affected warranted Materials.
- 13.9 The Contractor warrants or undertakes that the author of any Contract Material, other than Prior Material, has given or will give written consent to the Specified Acts (whether those Specified Acts occur before or after the consent is given) and that such consent extends directly or indirectly to DFAT.

14. INDEMNITIES

s 22(1)(a)(ii)

s 22(1)(a)(ii)

- 14.3 DFAT must take any reasonable action to mitigate any Loss arising out of clause 14.1.

15. BRANDING

15.1 The Contractor must:

- (a) identify, and with prior DFAT approval, implement appropriate opportunities for publicising the Project/Program (including signage at each Project/Program site that acknowledges the funding of the Project/Program) in accordance with "DFAT Guidelines for managing Contractors (or NGOs or multilateral agencies) on the use of logos and other forms of acknowledgement" at all times;
- (b) only use the Australian Government/DFAT crest logo with prior approval, (in-line version or stacked version) in Australia or the Australian Aid identifier overseas to denote association with Australia, the Australian Government or DFAT in any publicity or other project related materials; and
- (c) promptly remove Contractor signs at the completion of the Project/Program unless otherwise instructed by DFAT.

16. PUBLICITY

- 16.1 The Contractor may not make media or other announcements or releases relating to this Contract without DFAT's prior written approval except to the extent that the announcement or release is required to be made by law.

17. AGENCY

- 17.1 The Contractor, and its Personnel are not, will not be deemed to be and must not represent themselves as being, by virtue of this Contract, an employee, partner or agent of DFAT.
- 17.2 The Contractor acknowledges that it has no authority to bind DFAT without DFAT's specific consent.

18. AMENDMENT

- 18.1 The Contractor must not do anything that amounts to a variation of this Contract in whole or in part otherwise than in accordance with this Clause.

- 18.2 The provisions of this Contract may not be amended either in law or in equity except in writing and substantially in the form of a Deed of Amendment signed by both DFAT and the Contractor.

19. WAIVER

- 19.1 A waiver by either Party of a breach of a particular provision of this Contract by the other Party does not operate as a waiver in respect of any other breach, and the failure of either Party to enforce at any time a provision of this Contract is not to be interpreted as a waiver of the provision.

20. SEVERANCE

- 20.1 If any term or condition of this Contract is not enforceable, other terms or conditions of the Contract that are self-sustaining and capable of separate enforcement are to continue in operation.

21. ASSIGNMENT

- 21.1 The Contractor may not assign or transfer any of its rights or obligations under this Contract without DFAT's prior written approval, and where consent is given the Contractor must execute a Deed of Novation substantially in the form of **Schedule 5** (Deed of Novation and Substitution).

22. SURVIVAL

- 22.1 The following clauses survive termination and expiry of this Contract:

Clause 10 (Warranties), **Clause 12** (Insurances), **Clause 13** (Intellectual Property Rights), **Clause 14** (Indemnities), **Clause 25** (Investigation by the Ombudsman), **Clause 27** (Fraud), **Clause 32** (Confidentiality), **Clause 33** (Privacy), **Clause 39** (Recordkeeping), **Clause 42** (Audit) and any other clause, which by their nature, survive the expiry or termination of this Contract.

- 22.2 In addition to the survival of clauses outlined at **Clause 22.1**, the expiry or termination of this Contract will not extinguish or affect any rights of either Party against the other accrued prior to termination, or arising at any future time from any breach or non-observance of obligations under this Contract.

23. GOVERNING LAW AND JURISDICTION

- 23.1 This Contract and any transactions contemplated under this Contract are governed by, and are to be construed in accordance with the laws of the Australian Capital Territory. Each Party to the Contract unconditionally submits to the exclusive jurisdiction of the courts of the Australian Capital Territory.

24. NOTICES

- 24.1 A notice given under this Contract:

- (a) must be in writing, signed by the Representative, or other authorised officer, marked for the attention of the person set out below and sent to that persons relevant address, by prepaid ordinary post (airmail if posted to or from a place outside Australia) or by facsimile transmission, or by email to the person's email address; and

- (b) will be taken to be received on the date it is delivered (if hand-delivered to the Party), in the case of a pre-paid letter sent by ordinary mail, on the third Business Day (seventh, if posted to or from a place outside Australia) after posting, or on the date of transmission if sent in its entirety to the recipient's facsimile machine (if sent by facsimile), or in the case of email, when it is delivered to a system from which the addressee can retrieve it.

24.2 The addresses, email addresses and fax numbers of the Parties are:

DFAT

Attention: s 22(1)(a)(ii)

Address: Department of Foreign Affairs and Trade
Australian High Commission
Level 4, Deloitte Tower, CBD
PAPUA NEW GUINEA

Fax: s 22(1)(a)(ii)

E-mail: s 22(1)(a)(ii) @dfat.gov.au

Contractor

Attention: s 22(1)(a)(ii)

SMEC International Pty Ltd

Address: Suite 2, Level 1
243 Northbourne Avenue
Lyneham ACT 2602
AUSTRALIA

Fax: s 22(1)(a)(ii)

E-mail: s 22(1)(a)(ii) @smec.com

PART 2 - COMPLIANCE

25. INVESTIGATION BY THE OMBUDSMAN

- 25.1 In carrying out the Services, the Contractor, and an employee or sub-contractor of the Contractor, may be a "Commonwealth service provider" under **Section 3BA** of the Ombudsman Act 1976 (Cth).
- 25.2 The Contractor must use its best endeavours, and must ensure that employees and sub-contractors of the Contractor use their best endeavours, in undertaking the Services, not to engage in conduct that:
- (a) would, if the Contractor or an employee or sub-contractor were an officer of DFAT, amount to a breach of duty or to misconduct; or
 - (b) should be brought to the attention of the principal officer of DFAT as defined in the *Ombudsman Act 1976* (Cth).

- 25.3 If the Commonwealth Ombudsman commences an investigation of conduct of the Contractor, as a Commonwealth service provider, the Contractor, at the cost of the Contractor, must cooperate with the investigator including:
- (a) providing all documentation required by the investigator;
 - (b) making Contractor Personnel available to assist the investigator; and
 - (c) allowing the investigator, at any reasonable time of the day, to enter a place occupied by the Contractor and carry on the investigation at that place.
- 25.4 If the Ombudsman brings evidence to the notice of DFAT concerning the conduct of the Contractor, or of an employee or sub-contractor of the Contractor, the Contractor must, at the cost of the Contractor, take whatever remedial action is required by DFAT or by the Ombudsman to rectify the situation.

26. COUNTER-TERRORISM

- 26.1 The Contractor must ensure that funds provided under this Contract (whether through a subcontract or not) do not provide direct or indirect support or resources to:
- (a) organisations and/or individuals associated with terrorism, and
 - (b) 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 the World Bank List or a Relevant List.

27. FRAUD

- 27.1 The Contractor must not, and must ensure that Personnel do not, engage in any Fraud and must prevent and detect Fraud, including Fraud by its Personnel.
- 27.2 Within one (1) month of the Start Date, the Contractor must conduct a Fraud risk assessment and produce a Fraud control strategy in compliance with the Commonwealth Fraud Control Guidelines available at www.ag.gov.au. The risk assessment and strategy must contain appropriate fraud prevention, detection, investigation and reporting processes and procedures.
- 27.3 The Contractor is responsible for preventing and detecting Fraud including Fraud within those functions outsourced/performed by a subcontractor or under any other arrangement established by the Contractor relating to the performance of this Contract.
- 27.4 The Contractor must ensure that Personnel are responsible and accountable to the Contractor for preventing and reporting any Fraud as part of their routine responsibilities. The Contractor must ensure that Personnel who are not employed by the Contractor report Fraud to the Contractor within five (5) **Business Days**.
- 27.5 If the Contractor becomes aware of a Fraud, it must report the matter to DFAT in writing within five (5) **Business Days**. The written report to DFAT must be signed by a Contractor authorised person and must include the following (where known):
- (a) the name of the Activity under which DFAT funding is being provided;
 - (b) name of any Personnel (including any subcontractors) involved;

- (c) the allegation(s), including a chronological account of the facts giving rise to the allegation(s);
 - (d) the names of the suspected offender(s) (where known);
 - (e) details of witnesses;
 - (f) copies of relevant documents;
 - (g) references to any relevant legislation;
 - (h) a nominated contact officer;
 - (i) any other relevant information (for example, political sensitivities, any other party or agency that has been informed, involved or that can assist with investigations); and
 - (j) the current status of any inquiries commenced by the Contractor.
- 27.6 If a report has been made in accordance with **Clause 27.5** above, the Contractor must respond within five (5) **Business Days** to any further requests for information DFAT may make.
- 27.7 If the Contractor becomes aware of a Fraud, the Contractor must, in consultation with DFAT, develop and implement a strategy to investigate the Fraud based on the principles set out in the Australian Government Investigations Standards.
- 27.8 The Contractor must investigate any fraud at the Contractor's cost and in accordance with any directions or standards required by DFAT. Whether the Contractor 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 DFAT.
- 27.9 DFAT reserves the right to appoint its own investigator, conduct its own investigation or report Fraud to the appropriate law enforcement agencies or any other person or entity DFAT deems appropriate in Australia or in the Relevant Country for investigation. If DFAT exercises its rights under this **Clause 27.9**, the Contractor must provide all reasonable assistance that may be required at its sole expense.
- 27.10 After the investigation is finished, if a suspected offender has been identified or at the direction of the Director of DFAT Fraud Control Section, the Contractor must promptly report the Fraud to the local police and any other appropriate law enforcement agency in the country where the incident has occurred, unless the Director of DFAT Fraud Control Section agrees otherwise in writing.
- 27.11 If the investigation finds the Contractor or Personnel have engaged in Fraud, the Contractor, in consultation with DFAT, must:
- (a) if DFAT funds have been misappropriated, pay to DFAT the full value of the misappropriated funds; and
 - (b) if DFAT-funded property has been misappropriated, either return the property to DFAT or, if the property cannot be recovered or has been damaged, replace the property with property of equal or greater value or quality, or repair the property, at no cost to DFAT.

- 27.12 If the investigation finds that a person other than the Contractor or Personnel has engaged in Fraud, the Contractor must, at the Contractor's cost, take all reasonable action to recover any DFAT funds or DFAT-funded property acquired or distributed through the Fraud, including taking recovery action in accordance with recovery procedures (including civil litigation) available in the Relevant Country.
- 27.13 The Contractor must keep DFAT informed, in writing, on a monthly basis, of the progress of its efforts to recover the DFAT funds or DFAT-funded property, including any recovery action.
- 27.14 If the Contractor considers that all reasonable action has been taken to recover the DFAT funds or DFAT-funded property and recovery has not been achieved or recovery has only been achieved in part, the Contractor may seek approval from DFAT that no further recovery action be taken.
- 27.15 If an investigation finds that the Contractor or Personnel have engaged in Fraud, or if DFAT discovers that a Fraud has not been reported to DFAT in accordance with **Clause 27.5**, DFAT reserves the right to:
- (c) terminate this Contract by giving the Contractor notice in writing specifying the date on which the termination will take effect; and
 - (d) not enter into any further agreements with the Contractor until such time as DFAT is satisfied that any recommended changes to the Contractor's management and procedures have been made in order to prevent any further Fraud from occurring and to ensure timely reporting of fraud to DFAT.
- 27.16 Without limitation to DFAT's rights pursuant to **Clauses 53** (Termination for Breach) and **27.15**, if the Contractor fails to comply with its obligations under this **Clause 27** with respect to a Fraud, DFAT may give the Contractor a written notice which specifies:
- (a) the obligation(s) with which the Contractor has not complied;
 - (b) the action that the Contractor must take to rectify the failure; and
 - (c) the date by which the Contractor must rectify the failure.
- 27.17 If the Contractor does not comply with a notice issued pursuant to **Clause 27.16**, DFAT reserves the right to:
- (a) terminate this Contract in accordance with **Clause 53**; and/or
 - (b) exercise its rights pursuant to **Clause 27.8**; and/or
 - (c) withhold payments (or parts of payments) due to the Contractor under this Contract until the Contractor has complied with the notice.
- 27.18 This **Clause 27** survives the termination or expiration of this Contract, including with respect to any Fraud relating to the performance of this Contract, which is not detected until after this Contract has been terminated or has expired.

28. ANTI - CORRUPTION

- 28.1 The Contractor warrants that neither it nor its Personnel will make or cause to be made, receive or seek to receive any offer, gift or payment, or benefit of any kind, which could be construed as an illegal or corrupt act, either directly or indirectly to any Party, in relation to the execution of this Contract.

- 28.2 Any breach of this **Clause 28** will entitle DFAT to issue a notice under **Clause 53** (Termination for Breach) to terminate this Contract immediately.

29. COMPLIANCE WITH LAWS AND POLICIES

- 29.1 The Contractor is responsible for ensuring that it and Personnel comply with applicable laws, Treaties or MOUs of the Commonwealth, any State, Territory or local authority and applicable Commonwealth Government policies as set out in this Contract or as notified to the Contractor from time to time.
- 29.2 With respect to any monies payable either to DFAT by the Contractor or to the Contractor by DFAT, the Contractor must:
- (a) comply with all relevant provisions of Commonwealth legislation, financial regulations and directions, except to the extent that the relevant obligation is imposed on DFAT; and
 - (b) if required by DFAT, comply with any recommendation by the Commonwealth Auditor-General concerning the handling of DFAT's money.
- 29.3 In performing any part of this Contract outside Australia, the Contractor and its Personnel and Sub-Contractors must:
- (a) not engage in any political activity in the relevant country during the provision of the Goods and/or Services;
 - (b) observe all laws and respect all religions and customs of that country; and
 - (c) conduct themselves in a manner consistent with the *Public Service Act 1999* (Cth) (including the Australian Public Service Values and Employment Principles and Code of Conduct).

30. SECURITY

- 30.1 The Contractor is responsible for the security of Contractor Personnel, ensuring that both the Contractor and its Personnel comply with this **Clause 30**.
- 30.2 If, during the Term of this Contract, the Contractor is required to access or otherwise gains access to Official Information or Security Classified Information, it agrees to comply with:
- (a) all relevant security requirements specified in the Commonwealth Protective Security Policy Framework as minimum standards;
 - (b) the security requirements specified in this Contract; and
 - (c) any variations or additions to the security requirements under this **Clause 30** that DFAT (in its absolute discretion) notifies the Contractor in writing. Such changes to the security requirements must be implemented by the Contractor from the date specified in the notice (or **5 Business Days** after it receives the notice if no date is specified).
- 30.3 The Contractor must ensure that all its Personnel, when using DFAT's premises or facilities, comply with all DFAT procedures and directions relating to security.
- 30.4 If required by DFAT each of the Contractor's Personnel engaged by or on behalf of the Contractor, must meet all necessary security assessments and standards required by DFAT including:

- (a) an identity check;
 - (b) a National Police Clearance check or equivalent;
 - (c) signing any forms notified to the Contractor by DFAT from time to time;
 - (d) holding Australian Government security clearances to the level requested by DFAT in accordance with the Commonwealth Protective Security Policy Framework, or as otherwise required by DFAT;
 - (e) attending and completing a DFAT Security Awareness Course prior to or as soon as possible after the Commencement Date at the Contractor's cost; and
 - (f) complying with any other security awareness requirements reasonably requested by DFAT
- 30.5 DFAT will facilitate the obtaining of security clearances for Contractor Personnel. The Contractor must bear the cost of security clearances for its Personnel. If the security requirements are redefined, the Contractor is entitled to apply to DFAT for a price variation.
- 30.6 All Personnel, where DFAT considers this appropriate, must:
- (a) attend and complete a Departmental Security Awareness Course prior to or as soon as possible after the Commencement Date at the Contractor's cost; and
 - (b) comply with any other security awareness requirements reasonably requested by DFAT.
- 30.7 The Contractor acknowledges that if any of its Personnel lose their security clearance or causes a security breach, DFAT may:
- (a) after consultation with the Contractor, require the replacement of that Personnel; or
 - (b) terminate this Contract for breach.
- 30.8 The Contractor must:
- (a) notify DFAT immediately on becoming aware of any security incident or security breach and comply with all DFAT directions to rectify the security problem; and
 - (b) participate in security reviews of its procedures at least annually as requested by DFAT and participate in any security audit in relation to the Contract, providing full co-operation to DFAT or its independent auditors, including the Australian National Audit Office .

31. WORK HEALTH AND SAFETY

- 31.1 The Contractor must perform its, and must ensure that its Personnel, perform their, obligations under this Contract in strict compliance with the Work Health and Safety Act 2011 (Cth) ('WHS Act') and are able to participate in:
- (a) any necessary inspections of work in progress;
 - (b) any necessary consultation with DFAT regarding implementation of the WHS Act provisions; and
 - (c) tests and evaluations of the Goods and Services.

- 31.2 The Contractor agrees, when using DFAT's premises or facilities, to comply with all reasonable directions and procedures relating to work health and safety and security in effect at those premises or in regard to those facilities, as notified by DFAT or as might be inferred from the use to which the premises or facilities are being put.
- 31.3 Without limiting any other provision of this Contract, the Contractor agrees to, on request, give all reasonable assistance to DFAT, by way of provision of information and documents, to assist DFAT and its officers as defined in the WHS Act to comply with the duties imposed on them under the WHS Act.
- 31.4 The Contractor acknowledges that DFAT may direct it to take specified measures in connection with the Contractor's work under this Contract that 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. The Contractor must comply with the direction at its own cost.

32. CONFIDENTIALITY

- 32.1 Neither Party, nor their Personnel may disclose, use or make public the Confidential Information of the other Party (or Confidential Information disclosed by or on behalf of the other) unless required by law, necessary for legal proceedings, provided with the written consent of the relevant Party, or required to manage the Contract. If the Confidential Information is required to be disclosed under this **Clause 32.1**, a Party must use all reasonable endeavours to ensure that persons receiving the Confidential Information do not further disclose the information.
- 32.2 DFAT Data (including DFAT Confidential Information) must not be removed from Australia or the relevant Partner Country.
- 32.3 If a Party is required to disclose Confidential Information by law or for legal proceedings, the disclosing Party must provide reasonable notice to the other Party.
- 32.4 The Contractor must obtain from any Personnel who will have access to DFAT Confidential Information, a written undertaking in the form set out at **Schedule 4** (Confidential Information) to this Contract relating to non-disclosure of that information.
- 32.5 The Contractor acknowledges and agrees to allow DFAT to publish details and report lists of Contracts valued over certain thresholds, and identify Confidentiality agreements in accordance with Senate Order requirements.
- 32.6 The Contractor acknowledges and agrees to allow DFAT to periodically publish detailed information about work under the Contract on the DFAT website. This will include information about the Contractor's policies, plans, processes, the results of the Contractor's aid activities and DFAT's evaluations of the Contractor's performance. DFAT and the Contractor will consult prior to publication or release of information regarded as sensitive (for example, Fraud or corruption matters).
- 32.7 The identity of the Contractor's Personnel is not Confidential Information, nor is this Contract with the exception of those items specified in **Schedule 4** (Confidential Information).
- 32.8 The Contractor must ensure that it obtains any necessary consent from its Personnel in relation to the requirements of this **Clause 32**.

- 32.9 Upon expiry or earlier termination of this Contract, the Contractor must either destroy or deliver to DFAT all DFAT Confidential Information.

33. PRIVACY

- 33.1 The Contractor, to the extent that it deals with Personal Information, when and for the purpose of, providing the Goods and/or the Services – is a ‘Contracted Service Provider within the meaning of the Privacy Act 1988 (Cth), and in accordance with the Act must:
- (a) comply with the Australian Privacy Principles , and
 - (b) co-operate with any reasonable request or direction of DFAT in relation to an inquiry, audit or other exercise of powers or functions, by the Information Commissioner under the Act or the Privacy Commissioner under the *Australian Human Rights Commission Act 1986* (Cth) as applicable.

PART 3 - CONTRACT MANAGEMENT

34. CONTRACT MANAGEMENT GROUP

- 34.1 Each Party must identify one **(1)** Contract Management Representative to be responsible for operational coordination and contract management and one Escalation Representative to assist in any Dispute Resolution, both to be listed in the Contract Details (on page 7), and to be changed in accordance with **Clause 24** (Notices).
- 34.2 If required by DFAT, this Contract Management Group may meet on a weekly basis for the first three **(3)** months from the Start Date of this Contract and then at a frequency (at least monthly) to be agreed between the Parties.
- 34.3 The Contractor must attend and participate in all Contract Management Group meetings as directed by DFAT and when required, consult, cooperate with, and promptly provide input, information and advice to the Contract Management Group on progress and performance of the Project/Program (including any matters, concerns, circumstances or events which may be affecting or may affect the Contractor's relationship with Stakeholders, DFAT or the Contract Management Group), and suggest actions to mitigate these, or assist in the prompt resolution of these.
- 34.4 A representative of the Contractor must take Minutes of all Contract Management Group Meetings and distribute copies of the Minutes to each member of the Contract Management Group within ten **(10)** Business Days after the relevant meeting.

35. REVIEW

- 35.1 At any time DFAT may itself, or may appoint an independent person or persons to conduct a review of any matter capable of affecting the performance of this Contract.
- 35.2 The Contractor and its Personnel must participate cooperatively in any reviews conducted by DFAT or its nominees, while continuing to perform its obligations

under this Contract, and respond in writing to any draft review report within **28 Business Days** after the date of receipt by the Contractor of the draft report.

- 35.3 Each Party must bear its own costs of any such reviews conducted by or on behalf of DFAT.

36. PERFORMANCE ASSESSMENT

- 36.1 The Contractor acknowledges and agrees that DFAT may issue in relation to this Contract:

- (a) a Contractor performance assessment;
- (b) Adviser performance assessments;
- (c) sub-contractor performance assessments; and
- (d) sub-contractor key personnel performance assessments.

- 36.2 Performance assessments will be substantially in accordance with the assessment sheet in **Schedule 11**. Within 28 days of receiving a performance assessment from DFAT, the Contractor must:

- (a) sign and return to DFAT the Contractor Performance Assessment together with any response; and
- (b) ensure that all other performance assessments together with any response the sub-contractor or any personnel wishes to include are signed and returned to DFAT.

- 36.3 Contractor must undertake Adviser, sub-contractor and sub-contractor personnel assessments as required by DFAT.

- 36.4 The Contractor must insert clauses in any sub-contracts relating to the Contract that require the sub-contractor to agree that:

- (a) DFAT or the Contractor may issue:
 - (i) a sub-contractor performance assessment; or
 - (ii) sub-contractor key personnel performance assessments, in relation to the sub-contract;
- (b) the performance assessments will be substantially in accordance with the assessment sheet in **Schedule 12**; and
- (c) the sub-contractor will sign and return the sub-contractor performance assessment together with any response within 28 days of receipt and will ensure that sub-contractor personnel performance assessments together with any response any personnel wishes to include are signed and returned within 28 days of receipt.

37. SPECIFIED PERSONNEL

- 37.1 It is a material term of this Contract that where Specified Personnel are identified in Schedule 1 (Statement of Requirements) the Services must be provided by them in their designated roles for the Term of the Contract. If any of them are unable to do so for a period of more than ten (10) **Business Days** the Contractor must not remove or replace them, but must notify DFAT in accordance with **Clause 24**

- (Notices) and seek DFAT's approval for proposed replacement personnel within **ten (10) Business Days** and at no additional cost to DFAT.
- 37.2 The Contractor must advise DFAT promptly in writing of any change in the circumstances of any Specified Personnel that would reasonably be considered likely to affect DFAT's assessment of the person under the Contract. In the event DFAT directs the Contractor to remove any Personnel as a result of notification under this Clause, the Contractor must identify replacement personnel within **ten (10) Business Days**.
- 37.3 The Contractor must only propose replacement personnel with suitable skills and qualifications to act as replacement Specified Personnel and able to commence providing the Goods and/or Services under the Contract immediately.
- 37.4 DFAT may give notice to the Contractor in accordance with **Clause 24** (Notices) requiring the Contractor to remove any Personnel from work in respect of the provision of the Goods and/or Services and propose new Personnel in accordance with **Clauses 37.1** and **37.2** above.
- 37.5 The Contractor must not engage a currently serving Commonwealth employee in any capacity in connection with the Goods and/or Services without DFAT's prior written approval.
- 37.6 The Contractor must not engage a Former DFAT Employee in any capacity in connection with the Goods and/or Services unless DFAT has approved the engagement.
- 37.7 When engaging Personnel for work in a Partner Country, the Contractor will use its best endeavours to ensure they are aware of the environment and culture of the Partner Country, are certified as fit and healthy (by a Medical Practitioner) and have received all necessary vaccinations.

38. SUBCONTRACTING

- 38.1 The Contractor may not sub-contract the provision of the whole of the Goods and/or Services and must not enter into a subcontract relating to the provision of the Goods and/or Services with a person who is or an entity which is listed on a World Bank List or a Relevant List.
- 38.2 The Contractor must obtain DFAT's prior written approval to sub-contract with any third party, except Specified Personnel, to the value of **AUD100,000** or more. In granting its approval, DFAT may impose any conditions it considers appropriate.
- 38.3 Where DFAT objects to the Contractor's preferred sub-contractor or DFAT nominates a particular sub-contractor in place of the Contractor's preferred sub-contractor, the Contractor must enter into an agreement with the sub-contractor as directed by DFAT on the basis of remuneration approved by DFAT and provide DFAT with a copy of the executed sub-contract.
- 38.4 If the Contractor subcontracts its performance of any part of this Contract, the Contractor will remain liable for the acts, defaults and omissions of the subcontractor as if they were the Contractor's acts, defaults and omissions.
- 38.5 Any subcontract entered into by the Contractor for the performance of any part of this Contract must contain clauses:

- (a) that authorise the Commonwealth to publish details of the name of the subcontractor and the nature of the 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 Services the subcontractor is subcontracted to perform; and
- (c) that give DFAT the right of substitution under **Schedule 5** (Deed of Novation and Substitution), to further novate the sub-contract to another contractor. The Contractor entering into a subcontract for the provision of parts or elements of the performance of the Services, or provision of the Goods, does not create any contractual relationship between DFAT and the subcontractor.

PART 4 – RECORDS, AUDIT AND REPORTS

39. RECORDKEEPING

- 39.1 The Contractor must ensure that it and its Personnel at all times to the satisfaction of DFAT:
- (a) keep accurate and up-to-date accounts and records relating to the performance of its obligations under this Contract (including receipts and expenses) in a manner that enables them to be conveniently and properly audited;
 - (b) record all operational activities in relation to the provision of the Services, including to enable the prevention, detection and investigation of Fraud as required by **Clause 27** (Fraud);
 - (c) keep accurate and up-to-date accounts and records which contain details of the disposition of Supplies as agreed to by DFAT, such as replacement, write-off or transfer to the Partner Country;
 - (d) comply with any standards prescribed by DFAT from time to time for the creation, care, access, storage, preservation and return or legal destruction of its accounts and records (including Contract Material) and any DFAT material;
 - (e) provide all reasonable assistance requested by DFAT for any administrative or statutory review concerning this Contract; and
 - (f) retain copies of all accounts and records for a period of seven (7) years after termination or expiration of this Contract or completion of any legal action arising out of or in connection with this Contract, whichever occurs later.
- 39.2 DFAT retains legal ownership of all records related to the provision of the Goods and/or Services by the Contractor. Upon termination or completion of this Contract, the Contractor must transfer all records created and maintained for Goods and/or Services provided by the Contractor under this Contract to DFAT in a format and manner which allows the records to be quickly and easily retrieved, reviewed and utilised by DFAT.

- 39.3 The Contractor must store, dispose of, and/or transfer, custody or the ownership of any Commonwealth records in accordance with standards issued under the Archives Act 1983 (Cth) and/or any specific instructions provided from time to time by the Australian Government through the NAA.
- 39.4 The Contractor must comply with any direction given by DFAT for the purpose of transferring Commonwealth records to the possession, custody or control of the NAA or providing the NAA with full and free access to those records.
- 39.5 The Contractor must maintain up to date records of the names of all sub-contractors engaged by the Contractor to perform part of the Services.
- 39.6 The Contractor may keep one (1) copy of all records created during the course of the provision of the Goods and/or Services for legitimate risk management and audit purposes.

40. ADVISER INFORMATION

- 40.1 In this **Clause 40**, "Adviser Information" means the information which the Contractor must give DFAT in accordance with **Clause 40.2** below, if requested to do so by DFAT. Adviser information may be Personal Information.
- 40.2 The Contractor must give DFAT the following information about each Adviser on **15 January** and **15 July** of each year:
- (a) position title;
 - (b) nature of engagement;
 - (c) discipline category;
 - (d) job level;
 - (e) gender;
 - (f) nationality;
 - (g) work location;
 - (h) contract start and end date;
 - (i) number of days worked in time period specified by DFAT preceding the receipt of the request;

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- (n) any other information regarding remuneration or costs associated with Advisers and identified by DFAT in the request.
- 40.3 In addition to the reporting requirements at **Clause 40.2** above, the Contractor must provide the information specified in **Clause 40.2** (a) – (n) within ten **(10) Business Days** of receiving a written request from DFAT.
- 40.4 DFAT will use the Adviser Information to ensure that the Australian Government's official overseas aid program achieves value for money and to meet its reporting requirements.

- 40.5 DFAT may disclose Adviser Information in accordance with **Clause 32** (Confidentiality).
- 40.6 The Contractor must ensure that Advisers, before they are engaged consent in writing to DFAT using the Adviser Information which may be collected under this **Clause 40** for the purposes described in **Clause 40.4** and are aware that:
- (a) DFAT may request, and the Contractor may provide to DFAT, the Adviser Information;
 - (b) DFAT may disclose the Adviser Information to Commonwealth Government Departments and Agencies, Commonwealth Ministers and Parliamentary Secretaries, and to the Commonwealth Parliament; and
 - (c) they are entitled to access their own Personal Information which is held by DFAT, unless DFAT has a lawful right to refuse access.

41. ACCESS TO PREMISES AND RECORDS

- 41.1 The Contractor must:
- (a) produce records, books and accounts for inspection by DFAT immediately upon request (including where entering into a subcontract and executing a Deed of Novation and Substitution) at the same time or within ten (10) **Business Days** of execution of the sub-contract by the Contractor.
 - (b) permit each of DFAT, the Commonwealth Auditor-General and the Information Privacy Commissioner or Privacy Commissioner as appropriate at reasonable times and on reasonable notice, through their officers, agents or advisers authorised on their behalf, to:
 - (i) access the Contractor's premises;
 - (ii) examine, inspect, audit and copy any accounts and records relating to this Contract or the Goods and/or Services;
 - (iii) provide all necessary facilities for this purpose; and
 - (iv) in the case of documents or records stored on a medium other than in writing, make available to DFAT on request reasonable facilities necessary to enable a legible reproduction to be created.
- 41.2 In the exercise of the rights under this **Clause 41**, DFAT must use reasonable endeavours not to unreasonably interfere with the Contractor's performance under the Contract in any material respect.

42. AUDIT

- 42.1 DFAT has the inspection and audit rights described in **Clause 41** (Access to Premises and Records) and this **Clause 42** and subject to these provisions, each Party is to bear its own costs in relation to any audit.
- 42.2 DFAT or a representative of DFAT may conduct audits relevant to the performance and/or compliance by the Contractor with any of its obligations under the Contract, including audits of the Contractor's relevant:
- (a) operational practices and procedures;
 - (b) project and financial management governance;

- (c) oversight practices and procedures;
 - (d) invoices and reports;
 - (e) Material (including records, books and accounts) in the possession of the Contractor; and/or
 - (f) other matters determined by DFAT to be relevant to the performance of the Contractor's obligations under the Contract.
- 42.3 Where DFAT has reasonable concerns regarding the Contractor's financial management systems, DFAT must provide the Contractor with written notification of those concerns outlining the action to be undertaken by the Contractor. These actions include:
- (a) a request that the Contractor's Company Director provide a Statutory Declaration confirming that he/she has sighted the necessary supporting documentation and confirms the veracity of the claim for payment;
 - (b) the Contractor providing DFAT with additional documentation to support the claim for payment; and/or
 - (c) a direction that the Contractor engage an independent, suitable organisation to undertake an audit of those financial management systems, including its invoicing procedures and practices, with a copy of the audit report to be provided to DFAT.
- 42.4 The Contractor must respond to any notice received under **Clause 42.3** above within fourteen (14) **Business days**.
- 42.5 DFAT reserves the right, at any time to direct the Contractor engage an independent audit firm and to provide DFAT with a copy of the audit report from the independent auditor.
- 42.6 If DFAT directs the Contractor to undertake an independent audit it must do so at the Contractor's cost, and the Contractor must comply with any directions given by DFAT regarding terms of reference or required auditing standards.
- 42.7 Where a direction has been made under **Clause 42.6** above, DFAT will not make any further payments owed to the Contractor pending certification of the reliability of the Contractor's financial management systems and the veracity of the invoicing procedures and practices.
- 42.8 This **Clause 42** applies for the term of this Contract and for a period of seven (7) **years** from the date of its expiration or termination.
- 42.9 The requirement for access and participation in audits does not in any way reduce the Contractor's responsibility to perform its obligations in accordance with this Contract.

43. REPORTS

- 43.1 The Contractor must provide DFAT, and if applicable other Commonwealth agencies, at its own cost, the reports described in **Schedule 1** (Statement of Requirements).
- 43.2 The Contractor must at its own cost comply with DFAT's reasonable directions as to the form and content of reports or other written information required under this

Contract. DFAT must give the Contractor at least two (2) weeks' notice of a change in the requirements for reports, unless otherwise agreed with the Contractor.

- 43.3 DFAT may reject and withhold payment of Fees for any report which does not, in the opinion of DFAT, meet the requirements or standards outlined in the Contract until the Contractor rectifies the report.

PART 5 - PAYMENT AND TAX

44. INVOICING

- 44.1 The Contractor must invoice DFAT for the provision of Goods and/or Services on a monthly basis, or as otherwise described in **Schedule 2** (Pricing Schedule).
- 44.2 For the purposes of this **Clause 44** (Invoicing) and **Schedule 2** (Pricing Schedule), an invoice is correctly rendered if:
- (a) it is in the form of a valid Tax Invoice under the GST Act (or, where the supply of the Goods and/or Services is not a Taxable Supply, in the form of an invoice approved by DFAT);
 - (b) it is accompanied by supporting documentation in respect of the Goods and Services in the form, and containing the information, reasonably required by DFAT;
 - (c) it is correctly addressed to DFAT and is correctly calculated;
 - (d) it relates only to Goods and/or Services that have been delivered to DFAT in accordance with the Contract;
 - (e) reimbursable costs, and amounts owing to suppliers or sub-contractors have been paid before submission of the invoice to DFAT;
 - (f) the invoice details all Goods and/or Services provided by the Contractor against the Fees referred to in **Schedule 2** (Pricing Schedule) and records the amount payable in respect of each category of Goods and/or Services described in the Contract;
 - (g) the Fees claimed in the invoice are inclusive of all costs, expenses, disbursements, levies and taxes and the actual costs and expenses incurred by the Contractor in providing the Goods and/or Services;
 - (h) it is in Australian dollars or converted into Australian dollars at the exchange rate incurred by the Contractor at the time of making the payment; and
 - (i) a company Director of the Contractor or authorised representative of the Contractor has certified that the invoice is accurate and represents the Goods and/or Services provided.
- 44.3 Where the Contract is for Goods, the Contractor must ensure that the charges for, and GST applicable to, the supply of Goods are itemised separately on the relevant invoice.
- 44.4 If an invoice is found to have been rendered incorrectly, any underpayment or overpayment shall be recoverable by or from the Contractor, as the case may be and, without limiting recourse to other available remedies may be offset against any amount subsequently due from DFAT to the Contractor.

45. PAYMENT

- 45.1 Subject to this Contract, DFAT agrees to pay the Contractor the Fees and/or Reimbursable Costs for the provision of the Goods and/or Services in accordance with **Schedule 2** (Pricing Schedule).
- 45.2 Without limiting **Clause 48** (Taxes), the amounts payable under **Schedule 2** (Pricing Schedule) are inclusive of all taxes and duties (including GST) payable in connection with the Goods and/or Services.
- 45.3 Subject to the Contract, DFAT must pay the Fees and Reimbursable Costs within **30 days** of:
- (a) receipt of a correctly rendered invoice in accordance with **Clause 44** (Invoicing); and
 - (b) DFAT's acceptance of the satisfactory completion of the Services and/or delivery of the Goods or relevant Payment Milestone as specified in **Schedule 2** (Pricing Schedule).
- 45.4 DFAT will pay all amounts payable to the Contractor under this Contract into a bank account nominated by the Contractor. The Contractor must provide DFAT with the necessary bank account details as soon as possible following execution of this Contract.
- 45.5 Any requests by the Contractor to change the bank account for payments under this Contract must be provided to DFAT with **30 Business Days** written notice.
- 45.6 If **Clause 45.5** above is not complied with, DFAT will not be responsible for any costs incurred by the Contractor as a result of the change including bank charges or exchange rate variances.
- 45.7 If the Contractor does not have an Australian Business Number ('ABN'), DFAT will be required to hold a prescribed proportion of the amount payable to the Contractor under the Contract, unless the exceptions under Division 12 of the PAYG legislation apply.

46. PAYMENT NOT AN ADMISSION OF LIABILITY

- 46.1 A payment by DFAT to the Contractor is not an admission of liability. If DFAT makes a payment and subsequently learns that performance specifications have not been met or that, on review, the amount is greater than the amount payable under the Contract, the payment shall be deemed an overpayment and recoverable from the Contractor.
- 46.2 Any overpayment may be offset against any amount subsequently due to the Contractor or may be recovered in Court as a debt due and payable to DFAT by the Contractor.
- 46.3 Where DFAT deducts the amount of a debt or payment in accordance with **Clause 46.2** above, it must advise the Contractor in writing that it has done so.
- 46.4 Unless approved in writing by DFAT, if the Contractor pays an Adviser more than the rate specified in the Adviser Remuneration Framework for the relevant Job Level and Professional Discipline Category:
- (a) the Contractor will not be entitled to seek reimbursement of the excess from DFAT; and

- (b) if the Contractor discovers the excess payment after it has received reimbursement from DFAT, it must promptly advise DFAT of the excess and deduct the amount of the excess from its next invoice.

47. DISPUTED INVOICES

- 47.1 DFAT need not pay an amount to the Contractor that is disputed in good faith by DFAT until the dispute is resolved.
- 47.2 If DFAT considers in good faith that an invoice exceeds the amount properly payable to the Contractor, DFAT must:
- (a) notify the Contractor of the amount in dispute within ten (10) **Business Days** after receipt of the invoice; and
 - (b) pay the balance of the invoice in accordance with **Clause 45.3** (Payment).
- 47.3 The Contractor must continue to comply with its obligations under this Contract, notwithstanding that there is a disputed invoice.

48. TAXES

- 48.1 Unless otherwise indicated, the amount payable under the Contract for each supply of Goods and/or Services under this Contract as listed in **Schedule 2** (Pricing Schedule) is the value of that supply plus any GST imposed under the GST Act. Payment by DFAT to the Contractor of the GST shall be subject to the Contractor providing DFAT with a valid Tax Invoice issued in accordance with the relevant provisions of the GST Act and regulations.
- 48.2 The total amount of GST payable by the Contractor, and for which the Contractor seeks payment from DFAT in respect of the supply shall be shown as a separate item on the Contractor's Tax Invoice.
- 48.3 If the additional amount under **Clause 48.2** above differs from the amount of GST payable by the Contractor, the additional amount must be adjusted between the Parties.
- 48.4 If a Party is entitled to be reimbursed or indemnified under this Contract, the amount to be reimbursed or indemnified does not include any amount attributable to GST which the Party is entitled to claim back by way of an input tax credit or otherwise.
- 48.5 Except as provided by this **Clause 48**, all taxes, duties and charges imposed or levied in Australia or in the Partner Country in connection with:
- (a) the performance of this Contract (including any sub-contracts entered into for the performance of the Services and the obtaining of any approvals, consents or authorisations); and
 - (b) the sale, purchase, lease, assignment, licence or transfer of any property under this Contract.
- shall be borne by the Contractor or its sub-contractor(s) as the case requires.
- 48.6 If a Changed Tax occurs which affects the cost to the Contractor of providing the Goods and/or Services, the Contractor must give DFAT:
- (a) written notice of the increase, decrease or removal;

- (b) written notice of the net effect of the Changed Tax on the cost of supplying the Goods and/or Services; and
 - (c) in the case of a decrease or a removal, any supporting evidence of the change and an explanation of its effect on the Management Fees,
- as soon as practicable after the change in the Changed Tax is announced or the Contractor becomes aware of the increase, decrease or removal.

49. SUPERANNUATION

DFAT will, as the case requires and in accordance with legislative requirements, contribute to a complying Superannuation Fund, a pre-existing fund nominated by the Contractor or where none is nominated to the Australian Superannuation a sum equivalent to the level stipulated from time to time in the Superannuation Guarantee (Administration) Act 1992 (Cth). The Contractor must include in its invoice for the Goods and/or Services the following information with regards to the superannuation guarantee contributions, superannuation guarantee contribution amount, full name and address of the Superannuation Fund and the Contractor's membership number.

PART 6 - REMEDIES, DISPUTES AND TERMINATION

50. REMEDIES

- 50.1 The Contractor must remedy at its own cost:
- (a) any failure to comply with the requirements of this Contract as soon as practicable after becoming aware of the failure; and
 - (b) if this is a Goods Contract, any errors or defects in the Goods notified to the Contractor by the DFAT Representative for the warranty period described in the Contract Details.
- 50.2 If the Contractor fails to rectify an error or a defect under **Clause 50.1** above within ten (10) **Business days** after notification by the DFAT Representative, DFAT may, without limiting the Contractor's warranties and obligations under this **Clause 50**, perform or have performed the necessary remedial work at the expense of the Contractor, and may recover such expense as a debt due to DFAT payable by the Contractor on demand.

51. DISPUTE RESOLUTION

- 51.1 If a dispute arises under this Contract, prior to commencing any arbitration or court proceedings -other than for interlocutory relief or where an authority of the Commonwealth, a state or Territory is investigating a breach or suspected breach of the law by the Contractor, or DFAT is exercising a right to terminate – the Parties must act in good faith and use their reasonable endeavours to resolve the dispute as follows:
- (a) the Party claiming that there is a dispute must give the other a written notice in accordance with **Clause 24** (Notices) setting out the nature of the dispute;

- (b) within ten (10) **Business Days** following notice, attempt to resolve the dispute through direct negotiation between the Contractor Representative and the DFAT Representative;
 - (c) if still unresolved, refer the dispute to each Party's Escalation Representative as set out in the Contract Details, who must in good faith work to resolve the dispute within a further ten (10) **Business Days** or any other agreed period;
 - (d) if still unresolved, the Parties have thirty (30) **Business Days** from the receipt of the notice to reach a resolution or to agree that the dispute is to be submitted to mediation or conciliation rather than litigation or arbitration; and
 - (e) if the dispute is not resolved in that time or there is no agreement to, or submission of the dispute to mediation or conciliation within a further thirty (30) **Business Days**, then either Party may commence legal proceedings.
- 51.2 Subject to **Clause 45** (Payment), the Contractor and Personnel must continue to comply with its obligations under this Contract, notwithstanding that there is a dispute between the Parties, or that legal proceedings are pending or current.

52. EARLY NOTIFICATION

- 52.1 The Contractor must immediately notify DFAT if the Contractor (including Contractor Personnel) or a sub-contractor is:
- (a) listed on a World Bank List or on a Relevant List;
 - (b) subject to any proceedings or an informal process which could lead to listing on a World Bank List or listing on a Relevant List;
 - (c) temporarily suspended from tendering for World Bank contracts by the World Bank, pending the outcome of a sanctions process;
 - (d) temporarily suspended from tendering by a donor of development funding other than the World Bank; and/or
 - (e) the subject of an investigation (whether formal or informal) by the World Bank or another donor of development funding.
- 52.2 If the Contractor becomes aware of any issue that may affect its performance of the Contract and in particular its compliance with any of the following clauses: **Clause 9** (Performance Standards), **Clause 10** (Warranties), **Clause 11** (Conflict of Interest), **Clause 12** (Insurances), **Clause 26** (Counter-terrorism), **Clause 27** (Fraud), **Clause 28** (Anti-Corruption), **Clause 29** (Compliance with Laws and Policies), **Clause 30** (Security), **Clause 32** (Confidentiality), or **Clause 33** (Privacy) and **Clause 38** (Sub-contracting), (including the use or disclosure of Sensitive, Personal or Confidential Information, or any Security Incident that arises), it must inform DFAT immediately.

53. TERMINATION FOR BREACH

- 53.1 Failure by the Contractor to notify DFAT under **Clause 52** (Early Notification) may result in immediate termination for breach under this **Clause 53**.
- 53.2 In addition to the rights to terminate outlined in **Clause 52** (Early Notification), DFAT may terminate this Contract by notice to the Contractor in accordance with **Clause 24** (Notices), if the Contractor or subcontractor, in any of the following circumstances:

- (a) commits a material breach or breach which, in DFAT's opinion, is not capable of remedy;
- (b) commits a breach capable of being remedied by the Contractor but the Contractor fails to remedy it within ten **(10) Business days** of receipt of a notice from DFAT specifying the breach;
- (c) commits a Persistent Breach under **Clause 9** (Performance Standards);
- (d) where the other Party is a company- if there is appointed or if steps are taken to appoint a liquidator, receiver, manager, controller or an administrator over the whole or any part of its affairs;
- (e) where the other Party is an individual – if it enters into a scheme of arrangement with its creditors, commits any act of bankruptcy or becomes bankrupt, or becomes incapable of managing its own affairs;
- (f) where the other Party has entered into this Contract in the capacity of trustee of a trust – if any event occurs or any action or step is (or is proposed to be) taken, which limits, restricts, or prevents it being indemnified out of the assets of that trust in respect of its obligations and liabilities under this Contract;
- (g) ceases to hold any licence, qualification, approval, authority or consent required for the Contractor to comply with its obligations under this Contract (except to the extent that this is outside the Contractor's reasonable control);
- (h) made a statement or warranty in its Tender or failed to make a disclosure in its Tender Declaration leading to this Contract and DFAT is satisfied on reasonable grounds that the statement was materially inaccurate, incorrect or misleading or the failure to make a disclosure would, in DFAT's opinion not have led to the formation of a Contract;
- (i) is convicted of any offence during the Term of this Contract;
- (j) the Contractor, its Personnel or subcontractors are or become listed on a World Bank or Relevant List or are subject to an informal process that may lead to them becoming so listed; and/or
- (k) does not take appropriate steps to manage and resolve an allegation of child exploitation or abuse with respect to this Contract, including a failure to inform DFAT immediately of any allegation of child abuse or exploitation in accordance with DFAT's Child Protection Policy.

54. TERMINATION FOR CONVENIENCE

- 54.1 DFAT has an unfettered discretion to, by notice to the Contractor in accordance with **Clause 24** (Notices), terminate or reduce the scope of this Contract from the time specified in the notice.
- 54.2 If DFAT exercises its right in **Clause 54.1** above, the Contractor must comply with directions given by DFAT, cease or reduce (as applicable) the performance of work and immediately do everything possible to mitigate its losses, and all other losses, costs and expenses in connection from, or arising out of Termination.
- 54.3 If DFAT terminates this Contract under this **Clause 54**, DFAT will only be liable for:

- (a) fees and any Reimbursable Costs, as payable under Schedule 2 (Pricing Schedule) for Goods and/or Services provided before the effective date of termination on a pro-rata basis; and
 - (b) any reasonable, substantiated costs which in DFAT's opinion were properly incurred by the Contractor in respect of unavoidable expenses sustained or incurred or that are contractually committed by the Contractor on the Business Day notice is given, and that are directly attributable to the termination or reduction in scope of this Contract (other than the cost of redundancies or the cost of terminating any subcontracts, and not including loss of profits or any other form of expectation loss).
- 54.4 Subject to this Contract, on expiry or Termination:
- (a) the Parties are relieved from future performance of this Contract, without prejudice to any right of action that has accrued at the date of termination;
 - (b) all licences and authorisations granted to the Contractor by DFAT under this Contract terminate immediately; and
 - (c) the Contractor must provide DFAT with all reasonable assistance and information to assist DFAT in transitioning to DFAT's new provision of Goods and/or Services arrangements.
- 54.5 The Contractor's obligations under **Clause 54.4** above include, at DFAT's request, continuing for a period of up to **three (3) months** to supply the Goods and/or Services to DFAT on the terms and conditions of this Contract until the time DFAT advises the Contractor that it is no longer required to do so. This clause does not apply during any period DFAT is in breach of an obligation to pay money under this Contract.
- 54.6 DFAT is not obliged to make any further payments to the Contractor except under **Clause 54.4**.

55. FORCE MAJEURE

- 55.1 Despite any other provision of this Contract, if a Party is unable to perform or is delayed in performing an obligation under this Contract (other than an obligation to pay money), by reason of a Force Majeure Event, and notice has been given in accordance with **Clause 55.2** below:
- (a) that obligation is suspended, but only so far and for so long as it is affected by the Force Majeure Event; and
 - (b) the affected Party will not be responsible for any loss or expense suffered or incurred by any other Party as a result of, and to the extent that, the affected Party is unable to perform, or is delayed in performing, its obligations because of the Force Majeure Event.
- 55.2 A Party affected by a Force Majeure Event must give the other Party a written notice which:
- (a) sets out details of the Force Majeure Event (including the effect of the Event on the Contract and details of insurance available to mitigate damage if any);
 - (b) estimates the likely period of time that the Party will not be able to perform, or the Party will be delayed in performing, its obligations; and

- (c) provides details of the action that it has taken, or proposes to take, to remedy the situation.

55.3 The Contractor must:

- (a) arrange a meeting with DFAT within 24 hours' of a notice given under **Clause 55.2** above; and
- (b) take all reasonable steps to avoid, remove or limit the effects of the Force Majeure Event on its performance of the suspended obligations as quickly as possible and re-commence performing them soon as possible.

56. EXTENSION OF TIME

- 56.1 Subject to **Clause 56.5** below neither DFAT nor the Contractor shall be in breach of the Contract to the extent that performance of their Contract obligations is prevented due to any significant change in circumstances (including change in Partner Country laws, and industrial disputes) that are beyond the control of the Contractor.
- 56.2 Where in the Contractor's reasonable opinion there is likely to be a delay in the Contractor's discharging of an obligation under the Contract due to **Clause 55** (Force Majeure) it must notify DFAT in accordance with **Clause 55.2** providing details of the delay and its likely impact on the performance of the Contract.
- 56.3 Where **Clause 55** (Force Majeure) has been triggered, the Contractor must take all reasonable steps to mitigate the effects of any delay, use its best endeavours to continue to perform the obligations, and where necessary, make a request in writing to DFAT for an extension of time outlining the length of the extension which the Contractor considers reasonable in all the circumstances in the form of an Amendment Proposal in accordance with **Clause 18** (Amendment).
- 56.4 DFAT must give consideration to the Contractor's recommendations and request for an extension of time as soon as practicable after receiving the request in accordance with **Clause 56.3** above and may grant approval subject to conditions.
- 56.5 If DFAT approves in writing a request by the Contractor for an extension of time under **Clause 56.3** above, any resultant changes to the Contract must be documented in a "Deed of Amendment".
- 56.6 Even if the Contractor has not given notice under **Clause 56.2** above, where DFAT considers that a delay has arisen, in whole or in part, because of an act or omission on the part of DFAT, its employees or agents, DFAT may, by notice in writing to the Contractor, extend the time for performance of the relevant obligation of the Contractor.
- 56.7 Where an extension of time has been granted and the Contractor has been unable to perform its obligations for forty five (45) **Business Days** or more, DFAT may suspend the Contract, reduce the scope or terminate the Contract by notice in writing.
- 56.8 In the event of suspension, deletion or termination of the Services or the Contract in accordance with this **Clause 56**, DFAT will be liable for Fees and Reimbursable Costs in accordance with **Clause 54** (Termination for Convenience).

57. LIABILITY

- 57.1 If any Party to this Contract consists of more than one person then the liability of those persons in all respects under this Contract is a joint liability of all those persons and a separate liability of each of those persons.
- 57.2 Subject to any law to the Contrary, DFAT, its employees, agents and advisors, disclaim all liability for any loss or damage suffered by any other person acting on any part of the information made available to the Contractor, in respect of the Project, whether or not the Loss arises in connection with any negligence, default or lack of care on the part of DFAT, its employees, agents or advisors.

PART 7 - PROJECT SPECIFIC CONDITIONS

58. DEFINITIONS

- 58.1 For the purposes of this **Part 7** the following Definitions Apply:

Civil Works means works involving professional engineering relating to design, construction, and maintenance management of transport infrastructure for land, aviation or maritime.

Construction Defect means any defect, fault, or omission in any Construction Work or any other aspect of any Construction Work which is not in accordance with the Contract requirements.

Construction Works includes all the construction and building work of any kind including the installation of equipment required for the delivery of the Goods and/or Services related to this Contract.

Director of Workplace Gender Equality means the person so named in **Section 9** of the *Workplace Gender Equality Act 2012* (Cth).

Project Vehicles means vehicles paid for by DFAT for an Australian Aid Program Project or Program and that are provided for Project/Program activities.

Team Leader means the specified person nominated in **Annex A of Schedule 1** (*Specified Personnel*).

59. HANDOVER

- 59.1 The Contractor must within twelve (12) months of the Project Start Date draft and provide to DFAT a copy of, a Handover Plan which includes all the functions to be performed to hand over Contract Material, Supplies, information, documents and other materials to the Partner Country (or to DFAT where Goods and/or Services are provided in Australia) in a manner which ensures the Partner Country is able to benefit from the Project and in particular enables the Partner Country to manage ongoing maintenance requirements, as well as any other matters specified in **Schedule 1**.
- 59.2 The Contractor must make changes to the Handover Plan as reasonably requested by DFAT and update the Handover Plan as necessary during the Project but at least annually and six (6) months before the end of the Contract.

- 59.3 The Contractor must ensure that a finalised Handover Plan is provided to DFAT within seven (7) days of any early termination of the Project, or one month prior to the expected completion of the Project.
- 59.4 The Contractor must:
- (a) bear the loss or damage in respect of the Supplies until handover of Supplies to the relevant Partner Government or back to DFAT;
 - (b) establish and maintain a Register of Assets which shall record any non-consumable Supplies valued at **AUD2,000** or more, which at a minimum contains the following information: reference identification number (which may be for example, a serial number, engine number or chassis number); description of the asset; date of procurement; cost; location; current status; and disposal or handover details; and
 - (c) submit to audit by or on behalf of DFAT its Register of Assets and associated documentation such as import documents, invoices and warranties at any time and from time to time.
- 59.5 On termination of the Contract, the Contractor must provide all reasonable assistance and cooperation necessary to facilitate the provision of further maintenance by DFAT or an alternative Contractor. In particular the Contractor must:
- (a) deliver to DFAT or its nominee complete copies of all the Data and Contract Material, in a form and on a media approved by DFAT, and any other DFAT property including the Supplies;
 - (b) either destroy or deliver to DFAT all copies of DFAT Confidential Information as required by DFAT;
 - (c) if requested by DFAT, facilitate the assignment to DFAT, DFAT's nominee or to the Partner Country of sub-contracts relating to Supplies, including for licensing and support of information technology and any construction work maintenance;
 - (d) vacate the Project Office where this has been supplied by DFAT or the Partner Country; and
 - (e) co-operate with DFAT and, if requested, DFAT's nominee, and provide reasonable assistance relating to the transfer of any contracts to DFAT, its nominee or the Partner Country.

60. PROJECT VEHICLE CONTRIBUTION

- 60.1 Project Vehicles remain the responsibility of the Contractor for the term of the Project/Program.
- 60.2 In consideration of the Contractor being entitled to use Project Vehicles for non-project use, the Contractor must contribute ^{s 22(1)(a)(ii)} for each Project Vehicle for each month of the Project. The contribution will be deducted by the Contractor and must be clearly identified on the Contractor's invoices.
- 60.3 The Contractor must prioritise project use over private use of vehicles, ensure Personnel have relevant licences, ensure vehicles are appropriately insured and serviced at regular intervals and have seat belts fitted.

- 60.4 The Contractor is responsible for any costs incurred in the event of an accident while the Project Vehicle is being privately used.

61. COMPLIANCE WITH DFAT POLICIES

- 61.1 The Contractor and its Personnel will ensure it is compliant with all DFAT policies including:
- (a) disability inclusive strategy *Development for All: Towards a Disability-Inclusive Australian Aid Program 2009 - 2014* for the DFAT - Australian Aid Program, accessible on the DFAT website at: www.dfat.gov.au. Particular attention must be directed towards the Strategy's six (6) guiding principles;
 - (b) the child protection compliance standards in the *Child Protection Policy* for the DFAT - Australian Aid Program, accessible on the DFAT website at: www.dfat.gov.au <http://www.dfat.gov.au/>;
 - (c) the *Family Planning and the Aid Program: Guiding Principles* (2009) for the DFAT - Australian Aid Program, accessible on the DFAT website at: www.dfat.gov.au;
 - (d) information accessibility requirements contained in the *Guidelines for preparing accessible content* for the DFAT - Australian Aid Program, accessible on the DFAT website at: www.dfat.gov.au; and
 - (e) the *Environment Management Guide for Australia's Aid Program* (2012) for the DFAT - Australian Aid Program and the *DFAT Environment Protection Policy* (2014), accessible on the DFAT website at: www.dfat.gov.au.
 - (f) 'Promoting Opportunities for All: Gender Equality and Women's Empowerment' (November 2011), accessible on the DFAT website at: www.dfat.gov.au.

62. NOT USED

63. GENDER EQUALITY

- 63.1 The Contractor must comply with its obligations, if any, to promote gender equality in the workplace under the Workplace Gender Equality Act 2012 (Cth) ('WGE Act')
- 63.2 If the Contractor becomes non-compliant with the WGE Act during the Term of the Contract, the Contractor must notify the DFAT Officer nominated in **Clause 24** (Notices) and DFAT reserves the right to provide the Contractor with directions regarding compliance.
- 63.3 If the Term of the Contract exceeds **eighteen (18) months**, the Contractor must provide a current letter of compliance with the WGE Act within 18 months from the Contract Commencement Date and following this, annually, to the DFAT Officer nominated in **Clause 24** (Notices).

64. NOT USED

65. NOT USED

66. NOT USED

67. NOT USED

68. CONSTRUCTION SERVICES AND USE OF APPROPRIATE BUILDING MATERIALS

68.1 The Contractor must engage specialist construction sub-contractors to undertake all Construction Work. However, the engagement of Construction sub-contractors shall not relieve the Contractor from any liability for the performance of this Contract in accordance with **Clause 38** (Sub-contracting).

68.2 The Contractor 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 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.

68.3 The Contractor must ensure that all Construction Work is carried out:

- (a) in accordance with 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.

68.4 When engaging a construction sub-contractor, the Contractor must undertake a competitive tendering process that complies with the *Commonwealth Procurement Rules* ('CPRs') and the *Public Governance Performance and Accountability Act* ('PGPA Act') and DFAT's policy on applying Division 2 of the CPRs and the PGPA Rules.

68.5 If DFAT reasonably considers that the Contractor has not adhered to appropriate processes or policies with respect to advertising for, or the evaluation of, tenders, DFAT may require the Contractor to cancel the tender selection process. In such circumstances the Contractor may be required to repeat the competitive tender process at no additional cost to DFAT.

68.6 The Contractor warrants that it will exercise a duty of care and good faith to DFAT in performing its obligations under this Contract including the preparation of all tender documentation and the administration of any construction sub-contract, including ensuring that such sub-contracts allow for the correction of any Construction Defects.

- 68.7 The Contractor must ensure, and provide certification in reports that any timber or other building materials used in any way for the Project has been sustainably harvested, or sourced from recycled building materials, and are not made of and do not contain any asbestos
- 68.8 In the event that Supplies or building materials provided or used in any way by the Contractor for the Project/Program do not comply with the requirements of this **Clause 68** the Contractor must remedy this defect at the Contractor's own cost.

69. PROCUREMENT AND GRANTS

- 69.1 In procuring all Supplies for the purposes of providing the Goods and/or Services to DFAT (including establishing subcontracts), the Contractor must:
- (a) determine what Supplies are required for proper implementation of the Services and advise DFAT;
 - (b) keep DFAT informed of ongoing requirements for Supplies in connection with the Project;
 - (c) implement procedures that are consistent with the principles of the Commonwealth Procurement Rules or the Performance Governance and Accountability Rules in particular, observing the core principles of achieving value for money and the supporting principles;
 - (d) maintain complete and accurate records documenting the procedures followed in procuring, and the particulars of Supplies;
 - (e) use its best endeavours to ensure Supplies are maintained including taking appropriate steps to ensure that manufacturers' warranties of Supplies are secured and warranty conditions followed;
 - (f) use its best endeavours to ensure Supplies are free from defects in design, material, manufacture or workmanship. The Contractor must replace defective Supplies under warranty provisions or at its own cost; and
 - (g) use the Supplies only for the purposes permitted under this Contract.
- 69.2 In administrating any Grant activities, the Contractor must:
- (a) implement procedures so that grant administration is undertaken in a manner that is consistent with the Commonwealth Grant Guidelines, in particular the seven Key Principles for Grants Administration; and
 - (b) maintain complete and accurate records documenting the procedures followed in selecting grant recipients.

70. LIQUIDATED DAMAGES

s 22(1)(a)(ii)

s 22(1)(a)(ii)

71. MANAGEMENT SERVICES

71.1 The Contractor must provide all management services necessary for the provision of the Services. In addition to the other requirements specified by this Contract, at a minimum the Contractor must provide the following management services:

- (a) provide pre-mobilisation briefings to Contractor Personnel covering security, medical/health situation, cultural environment, details on the Program objectives, and relevant contract obligations; ;
- (b) decision-making within the Contractor's organisation and the advising of DFAT of decisions required by DFAT;
- (c) pro-actively identifying and rectifying risks or problems or recommending strategies to DFAT on how to treat risks and rectify problems, which may arise in, or during the performance of, the Services;
- (d) managing those risks which are the Contractor's responsibility under this Contract in accordance with the Risk Management Plan including in relation to Supplies after delivery and before their incorporation into the Project; and
- (e) attendance at briefings with DFAT and status reporting to DFAT on progress at the times required by DFAT.

72. ANNUAL IMPLEMENTATION PLAN

- 72.1 The Contractor must provide an Annual Implementation Plan to DFAT, as per **Schedule 1, Clause 14.22**, at a time and in a format agreed with DFAT and PNG's Transport Sector Coordinating, Monitoring and Implementation Committee (TSCMIC) through the Program Director.
- 72.2 Annual planning shall be based on a multiyear planning and resourcing framework informed by the individual Agency Support Arrangements that will be reviewed annually. The Annual Implementation Plan shall be the major planning document for the Program. The Contractor must ensure consultation with all stakeholders occurs throughout the annual planning process so as to facilitate final approval.
- 72.3 The Annual Implementation Plan must be prepared in accordance with directions provided in writing by DFAT, be consistent with this Contract and include the following matters:
- (a) the Contractor's plan for performance of the Services required for the period of the Annual Implementation Plan;
 - (b) the Contractor's proposed strategy for coordinating any Third Party Issues and for providing the Services in a flexible manner as is appropriate;
 - (c) a detailed budget for the period of the Annual Implementation Plan; and
 - (d) development of the Annual Implementation Plan must support and be informed by the results of Program reporting, monitoring and evaluation.
- 72.4 The Contractor must make amendments to the Annual Implementation Plan as reasonably requested by DFAT.
- 72.5 Within 30 days of receipt of the Annual Implementation Plan in accordance with **Clause 72.1** DFAT shall notify the Contractor in writing when a decision is likely to be made to reject or accept the Annual Implementation Plan. If such Annual Implementation Plan has not been approved or rejected within 30 days, DFAT shall give fair and reasonable consideration to granting an extension of time to the Contractor in respect of the performance of the Services.
- 72.6 DFAT's acceptance of an Annual Implementation Plan does not represent a change to the Contract. The Contract may only be varied in accordance with **Clause 18** (Amendment) of **Part 1** (Standard Contract Conditions).

73. MEETINGS

- 73.1 The Team Leader must attend meetings in Port Moresby, to review or discuss this Contract including the following matters:
- (a) the general progress of the Project;
 - (b) matters arising from the Contractor's reports to DFAT;
 - (c) any issues arising as a result of communication by either Party with Stakeholders;
 - (d) any other Third Party Issues and the Contractor's proposal for resolution of any issue referred to in **paragraph (c) above**;
 - (e) any proposed amendments to the Project including in relation to timing, whether or not any such amendment has been agreed to by DFAT;

- (f) Contract performance matters;
 - (g) the accuracy of invoices; and
 - (h) such other matters in relation to which either Party provides five (5) **Business Days** notice in writing to the other Party.
- 73.2 DFAT may require the Program Director and the Team Leader to attend an implementation briefing in Canberra prior to mobilisation. DFAT may also require the Team Leader and other Specified Personnel to attend a meeting at the Australian Diplomatic Mission in the Partner Country before commencement of Project implementation.
- 73.3 The Contractor acknowledges and agrees that the costs of any meetings under this **Clause 73** are included in the Management Fees. DFAT may determine the length of the meetings required, but DFAT expects that such meetings shall be for approximately 8 hours (excluding meal breaks).

74. PERSONNEL SECURITY

- 74.1 The Contractor is responsible for the security of Contractor Personnel and for taking out and maintaining appropriate insurances in respect of Contractor Personnel.
- 74.2 The Contractor is responsible for the immediate development and implementation of a Security Plan to ensure the safety and security of Contractor Personnel. The Security Plan should incorporate prevention strategies and response plans, including evacuation plans where appropriate. The Contractor shall submit a copy of the Security Plan to DFAT prior to mobilisation in the Partner Country. The Contractor shall review and update the Security Plan whenever considered necessary by the Contractor and shall submit the revised document to DFAT.
- 74.3 The Contractor must keep abreast of the security situation in the Partner Country including where relevant having regard to travel advisories and notices including those issued by the Australian Department of Foreign Affairs and Trade. The Australian advisories and notices are available at: www.dfat.gov.au
- 74.4 The Contractor acknowledges and confirms that, notwithstanding any other provisions of the Contract:
- 74.5 it is not the function or responsibility of DFAT or any person acting or purporting to act on behalf of DFAT, to comment on or approve the Contractor's Security Plans; and
- 74.6 the Contractor has not entered the Contract based on any representation, statement or assurance by DFAT or any person acting or purporting to act on behalf of DFAT, in respect of the safety or security of the Contractor, Contractor Personnel or any person acting on behalf of the Contractor, in the Partner Country or in any other location.

75. PROVISION OF SERVICES

- 75.1 In providing the Services, the Contractor must:
- (a) perform the Services as described in **Schedule 1** for the term of the Contract, unless the Contract is terminated earlier;

- (b) accept and implement DFAT's reasonable directions in relation to the management of the Project;
- (c) use its best endeavours to ensure the spirit and intent of the Project are fully met by the Services, including acting within the spirit and intent of the Treaty, MOU or Subsidiary Arrangement;
- (d) liaise and cooperate with DFAT, with the stakeholders, and the Australian Diplomatic Mission in or having responsibility for the Partner Country especially in relation to security, personal safety and welfare matters;
- (e) subject to any flexibility permitted in the Contract, ensure all timing obligations included in the Contract are fully met;
- (f) within the term of the Contract assist DFAT in the maintenance and ongoing implementation of the Services, including monitoring and evaluating the Services to ensure results accord with the aims of the Project, and provide necessary handover assistance to any subsequent service provider and to the Partner Country;
- (g) ensure that the Services are provided to a standard which shall promote Australia's international reputation and standing as a source of skill and expertise in the provision of international assistance;
- (h) perform the Services in a manner which, as far as possible, establishes and maintains a harmonious, cooperative and effective working relationship with stakeholders and any personnel from the Partner Country involved in the Project;
- (i) if a Risk Management Plan for the Project has not been prepared prior to the Project Start Date, the Contractor must prepare a Risk Management Plan, which includes consideration of DFAT's Business continuity planning, within 30 days after the Project Start Date. If requested by DFAT, the Contractor will make the Risk Management Plan available to DFAT;
- (j) whether a Risk Management Plan is prepared under paragraph (i) above, or was prepared prior to the Project Start Date (for example, as part of the Contractor's tender for the Project or as part of the Project Design Document or similar document), the Contractor must maintain and update the Risk Management Plan, as necessary, to ensure that at all times it adequately reflects Project risks and includes risk-minimisation strategies. The Contractor must promptly advise DFAT of any significant risks in accordance with **Clause 50** of Part 6 (Remedies, Disputes and Termination). The Contractor must also ensure the Risk Management Plan contains provisions for advance notification of DFAT of risks that may lead to disruption or delay of the Project;
- (k) liaise with, and obtain all necessary consents, approvals and authorisations from any public and other authorities in the Partner Country;
- (l) provide adequate support resources to secure the aims and objectives of the Project;
- (m) be responsive to the changing needs and environment of the Partner Country;
and

- (n) seek to improve the quality, effectiveness and efficiency of the Services at every opportunity.
- 75.2 The Contractor represents and warrants that:
- (a) it and the Contractor Personnel have the necessary experience, skill, knowledge, expertise and competence to perform the Services;
 - (b) the Services will be fit for purpose;
 - (c) the Services will be complete, accurate and free from material faults;
 - (d) any materials that the Contractor incorporated in the Services are free from defects in design, performance and workmanship; and
- 75.3 all work performed under this Contract will be carried out and completed in a proper and workmanlike manner and in the most cost-effective manner and using materials suitable for the purpose.
- 75.4 Without limiting its other obligations and liabilities under this Contract, the Contractor must remedy at its cost any failure to comply with its obligations to perform the Services in accordance with this Contract as soon as practicable after becoming aware of the failure.
- 75.5 The Parties recognise that the performance of the Services may be affected by changes to relevant policy in the Partner Country, and that some flexibility in the performance of the Services shall be required.

76. ACCESSIBILITY REQUIREMENT FOR DFAT WEBSITES

- 76.1 If the Statement of Requirements require the Contractor to develop or maintain a website on behalf of DFAT, the Contractor must ensure that the website complies with the Web Content Accessibility Guidelines (WCAG) Version 2.0, Level AA or new guidelines as notified by DFAT in writing.

77. IMPREST ACCOUNT

Establishment of the Imprest Accounts

- 77.1 Not used.
- 77.2 Not used.
- 77.3 Not used.

Management of the Imprest Accounts

- 77.4 The Contractor is responsible for the management of (including scheduling, acquittal and disbursement) and reporting on the Imprest Account.
- 77.5 The Contractor must produce and submit to DFAT for approval, within 30 days of the Project Start Date, a Manual of Operations which details the management arrangements and operational procedures for the Imprest Account. The Manual of Operations will form an integral part of this Contract. The Manual of Operations must be consistent with the template format attached to this Contract with Part A being mandatory and not subject to modification unless otherwise stated in this Clause. Where appropriate the Manual of Operations must be developed in consultation with the Partner Government using its systems, forms and processes as much as possible.

- 77.6 The Contractor, in consultation with the Partner Government, where appropriate, must appoint two senior personnel from one or both of their respective organisations as principal signatories to the Imprest Account. Both principal signatories must sign withdrawals. If one of the principal signatories is absent from the Project, a third approved nominee may act as an alternative signatory to the Imprest Account. All principal and alternative signatories must be named in the Manual of Operations for the Imprest Account.
- 77.7 The senior personnel referred to in **Clause 77.6** above must not be persons employed or engaged directly by the Australian government.
- Use of Money in the Imprest Account**
- 77.8 Money in the Imprest Account is the money of the Contractor and is not held by the Contractor on trust, or as agent, for DFAT or otherwise on behalf of DFAT.
- 77.9 The Contractor must only use the money in the Imprest Account for the purpose of funding approved Project activities in accordance with this **Clause 77**. The Contractor must not intermingle money paid into the Imprest Account, or paid to the Contractor for the purposes of the Imprest Account, with its other money.
- 77.10 The Contractor must use the money in the Imprest Account solely for the purpose of funding approved Project activities. No money paid into the Imprest Account, or paid to the Contractor for the purposes of the Imprest Account/s shall be intermingled with the Contractor's other money.
- 77.11 Payments by the Contractor out of the Imprest Account must not include payments:
- (a) to the Contractor for Management fees or other costs;
 - (b) to any individual engaged under the Australian Public Service Act; and
 - (c) in respect to items listed as reimbursable expenditure, prepayments or payments in advance under the Contract.
- 77.12 The Contractor must pay bank charges relating to the Imprest Account with monies from the Imprest Account and acquit those charges in the same way other expenditure is acquitted.
- 77.13 Interest earned on the Imprest Account forms part of the money of the Imprest Account and must only be used by the Contractor in accordance with this **Clause 77** and acquitted to DFAT as such.
- 77.14 If the Contractor becomes entitled to a tax benefit or credit of any kind (other than a deduction or offset for income tax purposes) arising anywhere in connection with a transaction involving money from the Imprest Account, the Contractor must pay an amount equal to the benefit or credit into the Imprest Account within 30 days of its receipt of the benefit or credit. The Contractor must actively and professionally identify and claim any such tax benefit or credit where they exist. The amount which is paid into the Imprest Account under this **Clause 77.14** must only be used in accordance with this **Clause 77** and must be acquitted to DFAT as such.
- 77.15 The Contractor must ensure that any payments from the Imprest Account to a Related Entity of the Contractor are made at arm's length and are identified and reported to DFAT under **Clause 77.26** below.

- 77.16 The Contractor must not make a payment from the Imprest Account to a Related Entity of the Contractor for an amount equivalent to or greater than AUD20,000 without the prior written approval of the DFAT Activity Manager.

Supplies and assets purchased with Imprest Account money

- 77.17 Supplies and assets purchased with money from the Imprest Account are the property of the Contractor until they are handed over in accordance with the Contract including to the Partner Government. The Contractor is not subject to DFAT direction in relation to the use of these Supplies and assets, except insofar as DFAT requires the assets to be branded or otherwise recognised as gifts of the Australian Government. The Contractor must give these Supplies and assets to the Partner Government or deal with them as agreed between DFAT and the Partner Government when this Contract expires or is terminated.
- 77.18 The Contractor must only use Supplies and assets purchased with money from the Imprest Account for the purposes of the Project, except where otherwise provided for in this Contract. If this Contract specifically permits the private use of Supplies and assets purchased from the Imprest Account, the Contractor must pay any costs associated with the private use into the Imprest Account.

Improper use of Imprest Account money

- 77.19 If money in the Imprest Account has been used otherwise than in accordance with this Contract, DFAT may require the Contractor to credit an amount equal to the misused money to the Imprest Account. The Contractor must promptly pay the required amount into the Imprest Account. Without limiting any other rights under this Contract, DFAT may cease to make further payments to the Imprest Account until the amount has been paid.

Payment of money into the Imprest Account

- 77.20 Before DFAT deposits money into the Imprest Account, the Contractor must give DFAT a financial security in accordance with the clause titled "Unconditional Financial Undertakings" in this Contract.
- 77.21 Subject to **Clause 77.23** and **77.24** below, DFAT will pay money into the Imprest Account on a three months basis
- 77.22 The first payment to the Imprest Account is payable following DFAT's receipt of the completed Manual of Operations for the Imprest Account and each subsequent payment is payable following DFAT approval of the Contractor's:
- (a) acquittal of the previous payment; and
 - (b) cash flow projection of money required for each subsequent payment, over the next acquittal period.
- 77.23 DFAT will pay amounts payable in accordance with Clause **77.22** above within 30 days of DFAT's receipt and acceptance of a correctly rendered acquittal and invoice.
- 77.24 The Contractor must ensure that the balance of the Imprest Account remains less than the amount of the financial security provided in accordance with the clause titled "Unconditional Financial Undertaking" in this Contract. Any amounts deposited by DFAT above this limit must be approved in writing to the Contractor

by DFAT's CFO or otherwise must be treated as being received in error and promptly repaid to DFAT.

- 77.25 If the Contractor obtains any financial benefit (including income tax benefit by way of deduction or offset) during the term of this Contract or within the financial year in which this Contract expires or is terminated, which is attributable to the use of the Imprest Account (including with respect to Supplies, assets or goods/services purchased with money from the Imprest Account e.g. a deduction for depreciation of Supplies and assets purchased from the Imprest Account), the Contractor must credit an amount equal to the financial benefit received by it to the Imprest Account or forward such an amount (where the Imprest Account has been closed) to DFAT within 30 days of the receipt of the benefit.

Reporting on the Imprest Account

- 77.26 The Contractor must report on the bank balance of the Imprest Account as at 31 March, 30 June, 30 September and 31 December each year, within 10 days of the end of each period, to the DFAT officer specified as the key contact in the Manual of Operations, with an additional copy of the report provided to DFAT's Chief Finance Officer by:

s 22(1)(a)(ii)

Email (Preferably): @dfat.gov.au

Post: Chief Finance Officer
Department of Foreign Affairs and Trade
RG Casey Building
John McEwen Crescent
Barton ACT 0221
AUSTRALIA

The report must clearly indicate the official title of the Imprest Account in accordance with this Clause. The report must also indicate the Contractors name, Contract title and number, the bank and branch where the Imprest Account is held, the start and end date of the Contract,

- 77.27 On every anniversary of the Project Start Date, the Contractor must arrange for an audit of the Imprest Account and all documentation relating to the Imprest Account for the previous twelve months. The audit is to be conducted by an independent external auditor in accordance with requirements detailed in this Contract and the Manual of Operations. The audit must be completed within 6 weeks of each anniversary of the Project Start Date and two copies of each audit report must be sent directly to DFAT by the independent auditor immediately upon completion. One copy must be sent to the relevant DFAT officer specified as the key contact in the Manual of Operations, with an additional copy sent to the Director, Audit at the following address:

s 22(1)(a)(ii)

Email (Preferably): @dfat.gov.au

Post: DFAT-Australian Aid Program
Attention: Director, Audit
GPO Box 887
Canberra ACT 2601
AUSTRALIA

- 77.28 At the end of the Project, the Contractor must arrange for a final independent audit of the Imprest Account and all documentation relating to the Imprest Account for the period since the last independent audit provided in accordance with Clause 77.27 above. The final audit report must be provided to DFAT with the Project Completion Report, with an additional copy sent separately to both the Director, Audit and the Chief Finance Officer.
- 77.29 The audit costs of the independent external auditors which conduct the audits required under **Clauses 77.27 and 77.28** will be paid for as a reimbursable expense and not out of the Imprest Account money unless specified otherwise in this Contract. The Contractor must ensure that contracted audit services represent value for money in accordance with Commonwealth Procurement Guidelines. The Contractor must comply with all other audit requirements as detailed in the Manual of Operations for the Imprest Account.
- 77.30 If audit findings indicate that the Contractor should make corrections or undertake other remedial work required to the Imprest Account, the Contractor must promptly do those things. The cost of any corrections or remedial work pursuant to audit findings is to be borne by the Contractor.
- 77.31 The Imprest Account and all documentation relating to the Imprest Account, including documentation related to the use of the Imprest Account money, may be subject to audit by or on behalf of DFAT at any time.

Remaining money in Imprest Account

- 77.32 If, when this Contract expires or is terminated, money remains in the Imprest Account, the Contractor must promptly pay to DFAT an amount equal to the total amount of money (including any accrued interest and benefit or credit referred to under **Clause 77.14 and 77.19** of this Contract) remaining in the Imprest Account.

Recovery of unaccounted for money

- 77.33 If DFAT becomes aware that the Contractor cannot account for any money in the Imprest Account including upon termination of this Contract, DFAT has the right to recover the amount in question (plus interest equal to the interest that would have been earned on the money had it remained in the Imprest Account) from monies due and owing to the Contractor under this Contract or as a debt due to the Commonwealth or by exercising the Unconditional Financial Undertaking referred to in the Clause titled "Unconditional Financial Undertaking" in this Contract, whichever DFAT in its absolute discretion considers appropriate.

Survival of this clause

- 77.34 This clause survives expiration or termination of this Contract.

SCHEDULE 1–Statement of Requirements

1. INTERPRETATION

1.1 In this contract, unless the context otherwise requires:

“ABG”	means the Autonomous Bougainville Government
“AIC”	means PNG’s Accident Investigation Commission
“AIP”	means Annual Implementation Plan
“ARF”	means the Adviser Remuneration Framework
“ASA”	means Agency Support Arrangements
“DFAT”	means the Department of Foreign Affairs and Trade
“CASA”	means the Australian Civil Aviation Safety Authority
“DNPM”	means PNG’s Department of National Planning and Monitoring
“DoT”	means PNG’s Department of Transport
“DoW”	means PNG’s Department of Works and Implementation
“DTS”	means ABG’s Division of Technical Services
“FIDIC”	means the International Federation of Consulting Engineers
“GoPNG”	means the Government of Papua New Guinea
“IRG”	means Independent Review Group
“M&E”	means Monitoring and Evaluation
“MEF”	means Monitoring and Evaluation Framework
“MTDP”	means PNG’s Medium Term Development Plan 2011-2015
“MTTP”	means PNG’s Medium Term Transport Plan
“NAC”	means PNG’s National Airport Corporation
“NEC”	means PNG’s National Executive Council
“NMSA”	means PNG’s National Maritime Safety Authority
“NRA”	means PNG’s National Roads Authority
“NRSC”	means PNG’s National Roads Safety Council
“NTS”	means PNG’s National Transport Strategy
“PMSC”	means Project Management and Supervision Contractor
“PNG”	means Papua New Guinea
“PNGASL”	means PNG Air Services Limited
“PNGCASA”	means PNG Civil Aviation Safety Authority

“PNGPC”	means PNG Ports Corporation
“PWM”	means PNG’s Department of Works Provincial Works Manager
“SGP”	means the DFAT-funded <i>Strongim Gavman Program</i>
“ITAC”	means independent Technical Audit Contractor
“ToR”	means Terms of Reference
“Transport MoU”	means PNG-Australia Transport Sector Memorandum of Understanding
“TSCMIC”	means PNG’s Transport Sector Coordinating, Monitoring and Implementation Committee
“TSSP”	means the DFAT-funded <i>Transport Sector Support Program</i>
“TSSP QR”	means the TSSP Quarterly Review
“QRMC”	means the DoW Quarterly Road Maintenance Committee

2. INTRODUCTION

- 2.1 The PNG Transport Sector Support Program (TSSP) commenced in 2007 as a long term commitment (15 - 20 years) to support the Government of PNG (GoPNG) achieve a well-maintained transport infrastructure network. DFAT funded the first phase of TSSP (TSSP1) from 2007 to support the sector under the oversight and strategic direction of the GoPNG through the Transport Sector Coordination Monitoring and Implementation Committee (TSCMIC). DFAT has also been working in partnership with individual transport agencies and authorities, currently including the Department of Transport (DoT), Department of Works and Implementation (DoW), Civil Aviation Safety Authority (PNGCASA), PNG Air Services Ltd (PNGASL), National Airports Corporation (NAC), PNG Ports Corporation (PNGPC), the National Maritime Safety Authority (NMSA), and the National Road Safety Council. The Department of National Planning and Monitoring (DNPM) and other central agencies are also represented on the TSCMIC and involved in TSSP.
- 2.2 Building on the implementation lessons of Transport Sector Support Program Phase 1 (TSSP1), the Contractor shall manage Phase 2 (TSSP2).

3. BACKGROUND

- 3.1 TSSP1 commenced in July 2007 after an initial two (2) year interim period and will be completed in November 2014, allowing a transition phase between TSSP1 and TSSP2. The program offered flexible responses to support the implementation of GoPNG policies, strategies and plans and assisted the GoPNG to deliver programmed road asset maintenance and improve safety and security standards in the aviation and maritime sectors.

TSSP Program Goal

- 3.2 The shared long term development goal of the Governments of PNG and Australia for TSSP, which TSSP2 shall contribute to, is a safe, reliable transport system in place enabling economic and social development in PNG.

4. PROGRAM EXPECTED OUTCOMES

- 4.1 The TSSP2 program logic is structured around three end-of-TSSP strategic outcomes that contribute to the achievement of the higher level shared development outcome. The three end-of-program Component outcomes are:
- (a) **Component 1 (Priority Land Transport Assets Maintained):** PNG agencies delivering a sustainable maintenance program with predictable GoPNG funding to maintain seventy-five per cent of priority national roads in good condition;
 - (b) **Component 2 (Critical Transport Safety and Security Systems Operating Effectively):** Critical safety and security regulatory and service functions consistently demonstrate enhanced stability, competence and compliance to international standards; and
 - (c) **Component 3 (Effective Agency and Sector Engagement, Performance and Accountability):** Predictable multi-year government funding streams for transport asset maintenance received, and key reforms progressed through enhanced engagement, agency performance and analysis.
- 4.2 The three-end-of Program Outcomes are:
- (a) TSCMIC and member agencies demonstrate increased capacity to coordinate, monitor, advocate for and report on the sector and its activities;
 - (b) PNG and Australian Governments engagement results in a set of targeted institutional and policy reforms achieved, and Partnership Funding levels met; and
 - (c) applied research and policy analysis completed that can be used to strengthen road maintenance delivery and civil aviation, land transport and maritime safety and security.

5. PROGRAM OVERVIEW

- 5.1 TSSP2 shall retain three major elements of TSSP1. These are:
- (a) public sector reforms in line agencies;
 - (b) central agency engagement; and
 - (c) prioritised transport asset maintenance.
- 5.2 TSSP2 shall also:
- (a) retain a whole of sector footprint covering maritime, aviation and land transport with oversight coordinated through the GoPNG via the TSCMIC;
 - (b) spend less than 20% of overall expenditure on adviser and capacity building support;

- (c) retain the major focus on land transport (roads) with the Department of Works being the principal implementing partner;
 - (d) retain the focus on traffic ability of the trunk road network in Bougainville and the sustainability of Australia's long-term investment in roads in the Autonomous Region of Bougainville, but with reference to priorities in the Bougainville Transport Plan as negotiated with the Autonomous Bougainville Government (ABG);
 - (e) retain the outsourcing of road works and supervision to private sector contractors as the main Civil Works delivery mechanism; and
 - (f) retain Australian whole of government support through the *Strongim Gavman Program* (SGP) and the *PNG-Australia Transport Sector Memorandum of Understanding* (Transport MoU).
- 5.3 TSSP2 shall build on and strengthen the TSSP approach through:
- (a) increased emphasis on service delivery in addition to capacity building and organisational reform to meet Partnership for Development targets and build a sustainable network;
 - (b) focus on progressive and opportunistic engagement with agencies through clearly defined Agency Support Arrangements (ASA) that establish performance indicators by way of milestones and outcomes. The scope and scale of ongoing support for an agency will be dependent upon satisfactory progress and GoPNG commitment to change and reform. Where progress is not evident, the context changes or new opportunities arise, DFAT in consultation with GoPNG will rethink, redirect, scale back or if necessary withdraw assistance;
 - (c) strengthen and improve support to the land transport sector to address service delivery bottlenecks and increase the pace of progress towards road sector targets. This will include a move to larger more complex rehabilitation activities, an increased focus on quality of works and more direct DFAT engagement on performance and implementation issues;
 - (d) support an enhanced role and expectations for TSCMIC to oversee and direct the implementation of TSSP and address systemic issues such as GoPNG procurement processes;
 - (e) include the ABG's Division of Technical Services (DTS) as a new partner agency to build ABG's ownership of, and DTS administrative capability to plan for and maintain, its transport infrastructure network;
 - (f) maintain understanding of the National Roads Authority (NRA) for possible future inclusion as a partner agency to improve the effectiveness of NRA's maintenance role in the sector;
 - (g) maintain understanding of the planned Infrastructure Development Authority (IDA) for possible inclusion as a new partner agency, assisting its establishment to oversee major projects;
 - (h) strengthen processes supporting performance and accountability to drive improvements in productivity and value for money; and
 - (i) establish a new research, analysis and piloting component to explore:

- (i) service delivery options, technologies and systemic constraints;
 - (ii) options to leverage opportunities through incentives; and
 - (iii) options for future direction as performance targets are met and priorities change.
- 5.4 The Medium Term Development Plan (MTDP) and the Partnership for Development have set the priorities through to 2015.
- 5.5 The MTDP objective is to deliver improved transport services to facilitate social development and economic growth. The MTDP's priorities in the sector are:
- (a) maintenance and rehabilitation of priority transport infrastructure;
 - (b) assessment of future transport needs; and
 - (c) building the capacity to implement GoPNG policies and physical works.
- 5.6 The PNG-Australia Partnership for Development Transport Infrastructure Schedule (the Partnership Schedule) supports the MTDP priorities and identifies two joint targets:
- (a) 75 per cent of the 16 priority national roads in good condition by 2015; and
 - (b) aviation and maritime transport services have consistently moved towards full compliance with international safety and security standards.
- 5.7 TSSP2 shall support achievement of these priorities as well as position the Program to determine appropriate priorities beyond 2015 or before if required.

6. TSSP1 to TSSP2 TRANSITIONAL ARRANGEMENTS

Transition Oversight and Coordination

- 6.1 The Contractor, as the incumbent TSSP1 Contractor, must immediately take over and extend all activities currently underway as part of the Transition Plan:
- (a) manage a sub-contract negotiated for delivery of road maintenance services for the ABG with Road Consult Pty Ltd;
 - (b) manage the procurement, negotiation and subsequent sub-contract for ongoing delivery of road maintenance services for the ABG;
 - (c) manage a sub-contract negotiated for delivery of road and bridge upgrades on Manus;
 - (d) manage a sub-contract negotiated for delivery of a scoping and design study on the Ramu Highway;
 - (e) implement and facilitate review processes of ASAs where an ASA is in place on commencement of this contract;
 - (f) take over the diagnostic review process to finalise ASAs where the process is incomplete at the time of mobilisation;
 - (g) the TSSP1 Contractor shall novate the TSSP1 Imprest Accounts to the Contractor; and
 - (h) take over management of the novated TSSP1 Imprest Accounts to maximise the return of any outstanding GST.

- 6.2 The Contractor shall be provided with a Handover Plan and complete copies of all data and manuals from TSSP1 to enable the Contractor to assume immediate provision of the Services.
- 6.3 GoPNG and DFAT shall jointly endeavour to ensure a smooth transition to TSSP2 implementation.

7. GOVERNANCE

Transport Sector Coordinating Monitoring and Implementation Committee (TSCMIC)

- 7.1 The TSCMIC is the primary governance and decision-making body for TSSP and shall:
- (a) provide oversight and strategic program guidance to all stakeholders;
 - (b) receive the draft annual plans from recipient stakeholders and with support from DoT, the Program Director and the Contractor consolidate them into the Program's Annual Implementation Plan (AIP);
 - (c) approve the overall AIP and those activities that arise outside of that process;
 - (d) oversight and endorsement of TSSP annual budget as part of the Transport Sector Budget submission based around the GoPNG Budget Cycle;
 - (e) review technical assistance inputs on a quarterly basis;
 - (f) monitor agency progress, review reports from and provide guidance to the recipient stakeholders;
 - (g) establish best practice and norms and coordinate the technical activities of donors in the transport sector;
 - (h) lead donor dialogue and coordination across the transport sector;
 - (i) act as spokesperson for the sector; and
 - (j) report to GoPNG and the public on the sector's performance under the National Transport Strategy (NTS), Medium Term Transport Plan (MTTP) and MTDP.

Quarterly Roads Maintenance Committee (QRMC)

- 7.2 The QRMC shall oversight progress and implementation issues for road maintenance. It will meet quarterly and include:
- (a) Secretary of Works or delegates being the two Deputy Secretaries – Chair;
 - (b) CEO National Roads Authority (NRA) or delegate;
 - (c) CEO Autonomous Bougainville Government (ABG) DTS or delegate;
 - (d) Secretary of the Department of Transport (DOT) or delegate;
 - (e) DFAT Senior Representative (minimum First Secretary);
 - (f) TSSP2 Program Director;

- (g) TSSP2 Team Leader;
 - (h) TSSP2 Component 1 Manager; and
 - (i) Donor partner Representatives.
- 7.3 The QRMC shall provide the key stakeholders with a direct forum for discussion of higher level policy, constraints, implementation issues and progress. The forum is essential to improving interaction and coordination and overcoming delays in project pipeline development and implementation. Technical members of the QRMC will continue to meet on a monthly basis to assist in ongoing coordination and discussion of implementation issues and progress.
- 7.4 The Contractor must provide secretariat services to the QRMC.
- TSSP Quarterly Review (TSSPQR)**
- 7.5 The TSSPQR shall oversight progress and implementation issues for Component 1. It will meet quarterly and include:
- (a) Secretary of the DoW or delegates being the two Deputy Secretaries – Joint Chair;
 - (b) Secretary of the DoT or delegate;
 - (c) DFAT Senior Representative (minimum First Secretary) – Joint Chair;
 - (d) TSSP2 Program Director;
 - (e) TSSP2 Team Leader;
 - (f) TSSP2 Component 1 Manager;
 - (g) TSSP2 Road Engineers; and
 - (h) PMSC(s) Team Leader or Senior Representative.
- 7.6 The TSSPQR shall provide the key stakeholders with a direct forum for discussion of operational level policy, constraints, implementation issues and progress of TSSP2 projects and activities. The forum is essential to improving interaction and coordination and overcoming delays in project pipeline development and implementation. Technical members of the TSSPQR will continue to meet on a monthly basis to assist in ongoing coordination and discussion of implementation issues and progress.
- 7.7 The Contractor must provide secretariat services to the TSSPQR.

8. ROLES AND RESPONSIBILITIES

- 8.1 The significant parties in the implementation arrangement for TSSP2 are:
- (a) PNG Government agencies and the TSCMIC;
 - (b) Australian Government agencies, specifically DFAT as PNG's development partner and Australian transport infrastructure agencies through *Strongim Gavman Program* (SGP); and the PNG-Australia Memorandum of Understanding in the Transport Sector (Transport MoU);

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- (c) the Contractor providing administrative and management support services for the Program and responsible for the majority of capacity development aspects of the Program;
- (d) the Project Management and Supervision Contractor (PMSC) contracted by the DoW, but funded by DFAT to provide project preparation, supervision, technical and contractual advice, on-the-job training/mentoring and other services to implement road maintenance and rehabilitation;
- (e) the Bougainville PMSC sub-contracted to the Contractor to provide project preparation, supervision, technical and contractual advice, on-the-job training/mentoring and other services to implement road maintenance and rehabilitation in Bougainville;
- (f) an Independent Review Group (IRG) to provide independent advice on program performance and strategic issues; and
- (g) an independent Technical Audit Consultancy (iTAC) to support improved quality and value for money of Civil Works.

Government of Papua New Guinea

- 8.2 The GoPNG is responsible for delivering the program through the stakeholder agencies participating in it. Specific responsibilities include:
- (a) TSCMIC prioritising the development agenda, plans, and budgets for the sector; it coordinates and approves work plans; it advocates on behalf of the sector; it engages with central agencies and development partners, and reviews sector performance;
 - (b) the Secretary of the DoT chairing TSCMIC with the Secretary of the DNPM as Deputy Chair;
 - (c) the recipient stakeholder agencies participating in TSCMIC, providing the staffing and other resources as specified in the plans for each activity under ASAs and annual plans. Agency heads will be responsible for the effective delivery of activities particularly around performance management; and
 - (d) the recipient stakeholder agencies reporting on and being accountable for their use of TSSP resources from all sources.

Government of Australia - DFAT

- 8.3 DFAT as PNG's development partner leads Australia's engagement in the sector. It shall work with the PNG partner agencies to influence strategic direction and performance. DFAT shall coordinate Australia's 'whole of government' partners to contribute appropriately to TSSP2 working under the PNG leadership of TSCMIC. Specifically DFAT shall:
- (a) work with TSCMIC to implement Sub-Component 3.2 (Engagement & Dialogue). DFAT will draw on expertise in other sectors in PNG, its own resources, and SGP, to enhance its engagement with GoPNG on issues central to the achievement of the Partnership Schedule's objectives;
 - (b) work with TSCMIC and recipient stakeholders to facilitate quality diagnostic and designs of all activities;

- (c) work with the TSCMIC and the DNPM to facilitate the coordination of the development effort in the transport sector;
 - (d) lead Australia's whole of government partners working with the sector;
 - (e) contract and manage a Program Director/Senior Policy Adviser (with a 75/25 time split). The Program Director shall be supported by Component Managers in technical matters and policy;
 - (f) engage the Contractor to provide the management support services described in the Contract;
 - (g) jointly with GoPNG agencies and TSCMIC participate in annual ASA review processes;
 - (h) develop the Terms of Reference for and select the IRG members (to be engaged by the Contractor); and
 - (i) provide higher level direction and guidance for the independent Technical Audit Contractor and review their annual work program.
- 8.4 The Program Director and the Contractor shall report to DFAT's Transport Infrastructure team, who will provide oversight of the program.

DFAT's Transport Infrastructure Team

- 8.5 DFAT staff in Port Moresby, principally the First Secretary Transport Infrastructure, shall oversee, monitor and manage the TSSP program and the work of the Contractor, through the office of a Program Director. DFAT shall meet with the Contractor's senior management and adviser team on a monthly basis to review progress of the work program across all transport sub-sectors. Constraints, risks, issues and solutions shall be openly discussed in these meetings.
- 8.6 DFAT shall not be involved in the operational and administrative work of the Contractor, but will be open to discuss and resolve work pressures, potential conflicts or risk to delivery of the program.
- 8.7 DFAT may contact senior advisers directly on occasions for specific information, data or briefing material. There must be close coordination with the Contractor's Finance Coordinator to ensure tight financial planning and control to achieve targets and disbursements for the program.

Program Director

- 8.8 The Program Director shall be contracted separately by DFAT and accountable to DFAT directly but will report to and advise both TSCMIC and DFAT. The Contractor shall not administer the Program Director's contract.
- 8.9 The Program Director shall support DFAT in performance management of the Contractor. On a day-to-day basis the Program Director shall direct the Contractor on program matters under the mandate provided by the GoPNG and DFAT through annual plans and ASAs.
- 8.10 The Contractor shall answer to DFAT on contractual and performance matters and to the Program Director on technical and implementation matters.

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- 8.11 The Program Director shall be located in the Contractor's TSSP2 office for direction purposes, but shall not be directly involved in managing the activities or the Services provided by the Contractor.
- 8.12 The Program Director shall have a good understanding of the issues impacting on the sector and implementation of the approved work plans in order to provide overall strategic direction for the Program.
- 8.13 The Program Director shall have concurrent roles:
- (a) Program Director of TSSP2; and
 - (b) DFAT Senior Policy Adviser.
- 8.14 The Program Director shall:
- (a) act as a counterpart to the Secretary of the DoT as the chairperson of the TSCMIC;
 - (b) provide strategic oversight of the implementation of TSSP2 including reviewing performance;
 - (c) provide policy and program performance advice to the TSCMIC and DFAT and directly contribute to public sector reform dialogue;
 - (d) lead the scoping of activities with agencies supported by the Contractor;
 - (e) oversight TSSP2 engagement with agencies;
 - (f) oversight ASA development and review processes;
 - (g) give directions to the Contractor on the implementation of the Annual Plan and ASAs;
 - (h) provide advice to DFAT on the implementation and performance of TSSP2, the Contractor, advisers and other Program inputs;
 - (i) manage the planning, scoping and responses to the missions of the IRG (see **Clause 10.7** of this **Schedule 1**) and the independent Technical Audit Contractor with the relevant PNG agency leader(s) and DFAT (see **Clause 10.8** of this **Schedule 1**);
 - (j) work with the SGP Senior Transport Strategy and Policy Adviser (Component 2 Manager) in realising program outcomes; and
 - (k) facilitate the effective working of the TSCMIC Secretariat.
- 8.15 As Senior Policy Adviser the Program Director shall:
- (a) provide advice to DFAT on transport infrastructure policy issues;
 - (b) access and coordinate program data and information to prepare for sector briefs and analysis on program effectiveness;
 - (c) participate in DFAT's engagement with GoPNG under the Partnership for Development;
 - (d) participate in and contribute to wider DFAT dialogue in infrastructure development across the region, and to other DFAT programs as required; and
 - (e) provide regular advice and recommendations on the performance of TSSP2.

Contractor

- 8.16 The Contractor's principal role is to facilitate the delivery of TSSP2, as directed by DFAT, through the Program Director.
- 8.17 The Contractor shall be responsible for administering the Program by:
- (a) delivering capacity building and technical assistance for governance to the various PNG agencies;
 - (b) providing support services and secretariat for the TSCMIC, QRMC and the TSSPQR; and
 - (c) providing financial and procurement oversight for the Program.
- 8.18 As the Program Manager the Contractor must:
- (a) maintain an appropriate office establishment in Port Moresby with necessary staff and assets (building, program vehicles, etc.) to administer the deployments of the various long and short term advisers funded from the Program;
 - (b) arrange appropriate induction programs and security for all directly contracted advisers and dependents when accompanied;
 - (c) provide overall management of the technical assistance program, including the expertise to specify technical skill sets, identify appropriate candidates and manage a competitive tendering system to recruit advisers as required for both short and long term inputs;
 - (d) respond to DFAT approved PNG agency requests for Technical Assistance (TA) in a rapid and flexible manner including mobilising advisers or contracting engineering expertise for humanitarian relief situation assessments;
 - (e) manage the TA inputs upon deployment, assessing the quality of adviser inputs, and dealing with any management or performance issues that may arise on the basis of fair, equitable and efficient human resource processes;
 - (f) maintain existing monitoring and evaluation (M&E) systems and data from TSSP1, review and upgrade the systems in consultation with DFAT and maintain the overall program focus on higher level impacts with appropriate reporting of achievements and constraints;
 - (g) be responsible for the quality of the services it contracts and manages, including financial management and procurement oversight;
 - (h) ensure the capacity development approaches for the delivery of road maintenance it oversees are effectively integrated with the PMSC(s) under the direction of the Component 1 Manager and Program Director;
 - (i) sub-contract and administer roads maintenance work in Bougainville through the Bougainville Project Management and Supervision Contractor;
 - (j) manage the sub-contract for delivery of road and bridge upgrades on Manus;
 - (k) manage a sub-contract for delivery of a scoping and design study on the Ramu Highway;

- (l) provide administrative and logistical support, including contracting of, the Independent Review Group;
- (m) establish and manage the independent Technical Audit Consultancy;
- (n) establish and manage the Core Advisers Team; and
- (o) provide a program management team of full-time personnel as specified in **Clause 9.1 (a) – (n)** of this **Schedule 1**.

9. STAFFING

- 9.1 The Contractor must recruit individuals to fill the following Long-Term Adviser positions (described in the Terms of Reference at **Annexes A, B and C** to this Schedule):

A. Long-term Advisers (Specified Personnel)

Operations Team

- (a) Team Leader (Discipline C, Level 4)
- (b) Deputy Team Leader (Discipline C, Level 3)
- (c) Recruitment & Program Procurement Manager (Discipline C, Level 3)
- (d) M&E Manager (Discipline C, Level 3)
- (e) Communications Manager (Discipline A, Level 4)
- (f) Program Finance Manager (Discipline C, Level 3)

Component Managers

- (g) Component 1 Manager (Discipline C, Level 4)
- (h) Component 3 Manager (Discipline C, Level 3)

Core Specialists

- (i) Sector Performance Specialist (Discipline C, Level 3)
- (j) Agency M&E and Reporting Specialist (Discipline C, Level 3)
- (k) Sector Analyst and Policy Specialist (Discipline C, Level 3)
- (l) Procurement Specialist (Discipline C, Level 4)
- (m) Social Safeguards Specialist (Discipline B, Level 3)

B. Long Term Personnel Costs (non-Adviser Remuneration Framework)

- (n) DoW Finance Cell Manager

C. Additional Unspecified Personnel

- 9.2 In addition to the Specified Personnel, the Contractor shall recruit other long and short term personnel as required to provide the Services. These positions will be funded from unspecified long term advisers or unspecified short term advisers as listed in Schedule 2 **Table 2** and **Tables 4, 6 and 7**.

- 9.3 The Team Leader shall be responsible for performance of the Contract and all Contractor Personnel.
- 9.4 The Contractor shall recruit, contract, manage and monitor the services of administrative staff to cover the administrative, logistical and financial operational requirements of the TSSP2.
- 9.5 The Contractor must ensure that the Specified Personnel perform their designated roles as outlined in the Terms of Reference at **Annexes A, B and C** to this **Schedule 1**.
- 9.6 The Contractor must ensure the presence of Specified Personnel in Port Moresby. Each of these positions is central to the effective delivery of the Services, as they provide adviser skills and responsibilities that are central to maintaining quality standards.
- 9.7 The Contractor must, in addition to requirements of **Clause 37.1 in Part 3** (Contract Management) of this Contract, ensure that when Specified Personnel are away from Port Moresby (or the TSSP2) there is a clear plan on how that person will be replaced and how their technical skills and understanding will be replicated by their temporary replacement.
- 9.8 The Contractor must aim to maximise the recruitment of appropriate Papua New Guinean personnel and where possible ensure a gender balance in sourcing personnel.

Recruitment

- 9.9 The Contractor shall provide recruitment services, in respect of the advisers or locally engaged personnel, as follows:
- (a) employ best practice processes in identifying, selecting and engaging advisers to ensure that the expected outcomes are fully met;
 - (b) ensure that the relevant GoPNG agency participates in the recruitment process;
 - (c) ensure that all recruitment for advisers is conducted in a manner that is consistent with the principles of the Commonwealth Procurement Rules (CPR's), including the core principle of "value for money" (incorporating both technical and price assessments), and all relevant regulatory and DFAT requirements on the use of advisers as may be amended from time to time.
- 9.10 This is also to include at least two (2) of the following advertising methods:
- (a) targeted print advertising in relevant national and local press, technical publications, and other major periodicals as relevant to the position;
 - (b) advertising on websites and other web-based means as relevant to the position; and
 - (c) target advertising through local, national and/or international networks.
and must
 - (d) ensure that all advisers are recruited against the approved terms of reference (ToR) for the position:

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- (i) who have the requisite technical skills and experience, as well as strong interpersonal qualities required to support capacity development; and
 - (ii) who understand and will promote DFAT's gender, HIV and disability equality principles.
- (e) facilitate the final approval by the DFAT infrastructure team of the preferred candidate. If the preferred candidate is not approved at this step, the Contractor is to undertake further recruitment activities at the Contractor's Head Office expense;
- (f) determine a professional Discipline Category and Job Level (from the Adviser Remuneration Framework) for each international position in conjunction with DFAT prior to the commencement of recruitment;
- (g) not undertake procurement or recruitment from the Contractor's company or a Related Corporation without prior written approval from the DFAT infrastructure team;
- (h) ensure adviser contracts include a clause that stipulates that contracts can be terminated with one month's notice, or thirty days pay in lieu (at the discretion of DFAT) with a no blame no fault clause;
- (i) provide initial briefings and ongoing logistical and administrative support for advisers that is tailored to their specific location; and
- (j) where sub-contracting conditions (refer to **Clause 38** of **Part 3** allow, the Contractor must actively look at opportunities for Papua New Guinean sub-contractors including those from the private sector.
- 9.11 In special circumstances (such as high urgency, limited availability of suitably qualified personnel and/or special skill requirements) the Contractor may on request from DFAT or with the written approval of DFAT, provide ad-hoc technical advisory services via the Contractor's in-house resources. When seeking approval, the Contractor must provide the reasons in writing for the course of action and why the proposed in-house resources provide the best value-for-money in the circumstances. The Contractor must provide an approximate costing, covering the fees and reimbursable costs based on approved TORs, and seek and receive written approval from DFAT, prior to providing the ad-hoc technical advisory services.
- 9.12 DFAT reserves the right to reject the Contractor's preferred specified personnel at DFAT's absolute discretion and to require the Contractor to undertake further recruitment activities at the Contractor's Head Office expense.

Component Managers

- 9.13 The Program Director is supported by three Component Managers. The Component 1 Manager (Land Transport) who is classified at ARF C4 shall be recruited and administered by the Contractor.
- 9.14 The **Component 1 Manager (Land Transport)** must:
- (a) provide the day-to-day oversight and supervision of the implementation of Component 1, supported as necessary by additional Contractor resources;

- (b) act as a counterpart to the Secretary of Works and the Senior Executive of the Department of Works;
 - (c) directly support the DoW in the oversight and management of the PMSC contract(s);
 - (d) maintain day-to-day operational communications with the NRA on the implementation of their road maintenance activities;
 - (e) maintain day-to-day operational contact and oversight of the sub-contracted road maintenance in Bougainville to ensure delivery of the Bougainville program of works;
 - (f) along with other Contractor resources, support the DTS develop their administrative capability to plan for and maintain its transport infrastructure network;
 - (g) provide technical advice to DFAT through the Program Director on reports and recommendations of the PMSC(s) as well as general development and technical best practice issues affecting the land transport sector;
 - (h) access and coordinate program data and information to prepare DFAT, TSCMIC, QRMC and TSSPQR briefs and analysis on program effectiveness; and
 - (i) provide analysis and advice on the content of the independent Technical Audit Consultancy reports and support implementation of the recommendations.
- 9.15 The Component 2 Manager (Safety and Security) role shall be undertaken by the Transport Team Leader of the SGP and sourced and administered through the SGP.
- 9.16 The **Component 2 Manager (Safety and Security)** must:
- (a) provide the day-to-day strategic oversight of the implementation of Component 2;
 - (b) support DFAT at the program level with SGP and the Transport MoU engagement in the agencies particularly on performance and reporting activities;
 - (c) act as a counterpart to the Secretary for Transport and DoT senior executive in regard to all Component 2 matters;
 - (d) maintain day-to-day operational communications with counterparts and with the Chief Executives of agencies addressing transport safety and security issues in PNG including Civil Aviation Safety Authority, Air Services Limited, National Airport Corporation, Accident Investigation Commission, PNG Ports Corporation and National Maritime Safety Authority;
 - (e) provide facilitation, secretariat support and technical advice to the TSCMIC sub-committee on Transport Safety and Security;
 - (f) provide technical advice to DFAT including through the Program Director on reports and recommendations of Australian Government Transport MoU partner agencies as well as general development and technical best practice issues affecting the sector; and

- (g) access and coordinate program data and information to prepare sector briefs and analysis on program effectiveness.
- 9.17 Arrangements for this role may be adjusted during the Contract if necessary and in line with broader SGP management approaches.
- 9.18 The Component 3 Manager (Performance and Accountability) who is classified as ARF C3 shall be recruited and administered by the Contractor.
- 9.19 The **Component 3 Manager (Performance and Accountability)** must:
- (a) oversight and manage the delivery of activities under Component 3;
 - (b) assist the Program Director by acting as a counterpart to the TSCMIC Secretariat (please also refer to **Clause 8.1** of this **Schedule 1**);
 - (c) work with the agencies and the Contractor's Core Adviser Team to extract high level performance data from program and sector activities;
 - (d) prepare analysis on policy issues as requested by TSCMIC or DFAT; and
 - (e) provide facilitation, secretariat support and technical advice to the TSCMIC sub-committee on Development Effectiveness or other relevant working groups that may be established.

Core Specialist Team

- 9.20 The Contractor must contract and support a team of key Advisers (the Core Specialist Team) which shall operate under the direction of the Program Director. TSCMIC as the coordinating body of the sector is the counterpart for these Advisers. Individual Chief Executives and Departmental Heads shall be the counterparts for particular assignments within agencies.
- 9.21 The Core Specialist Team shall provide support to agencies but generally focus on whole of sector issues (policy issues, national budget and annual reporting). These positions are distinguished from, and in addition to, agency specific Advisers who shall be established and deployed in line with the ASAs.
- 9.22 The Core Specialist Team must:
- (a) deliver core tasks as described in their respective ToRs;
 - (b) collectively work on major sector drivers (e.g. policy positions, the budget and annual reporting);
 - (c) assist in the monitoring and diagnostic process to determine specific capacity development and performance management needs in the recipient agencies and ensure the capacity development approaches are appropriate to the diagnosed needs;
 - (d) undertake specific capacity development assignments defined through the ASAs;
 - (e) assist the TSCMIC by monitoring international best practice and developments and producing issues papers for the TSCMIC consideration and wider stakeholder dissemination as required;
 - (f) advise agency management to ensure planning is consistent with PNG and Australian Government strategic priorities; and

- (g) monitor performance and consolidate agency implementation reports for the sector on behalf of TSCMIC, PNG agencies and DFAT.
- 9.23 The Core Specialist Team shall include, but is not limited to:
- (a) **Sector Performance Specialist** – working with the TSCMIC, the DoT and all agencies to support reporting on the national planning and strategy documents with particular emphasis on the production of the sector annual report by the DoT.
 - (b) **Agency M&E and Reporting Specialist** – working with the eight agencies to strengthen and enhance their ability to report on their individual performance against corporate, business plan and statutory requirements particularly to publish annual reports with performance information and audited accounts;
 - (c) **Sector Analyst and Policy Specialist** – working in the DNPM, with Treasury and Finance, this position provides analysis and advice at the macro-level of sector financing and policy; supports the DNPM and the agencies to capture relevant data and report against the MTDP to CACC and NEC; supports TSCMIC in its sector coordination and advocacy roles for improved financing and institutional reform in the sector;
 - (d) **Procurement Specialist** – will work across the sector to advise on procurement issues, support procurement capacity strengthening activities, and verify adherence to good procurement practice. Additional procurement resources will be required by the program to ensure oversight and verification responsibilities are sufficiently resourced;
 - (e) **Social Safeguards Specialist** – will work with TSSP2 personnel and transport sector agencies to assist those agencies develop and/or strengthen strategies and plans and activities aimed at improving social safeguards across the sector, focusing on mainstreaming and improving outcomes in the areas of gender, HIV&AIDS, road safety, disability and environmental policies as well as other development issues;
 - (f) **Public Finance Management Specialist (short term inputs)** – working with all agencies and the sector on all steps of the budget cycle guiding all public revenues and expenditure processes contributing to the annual budget cycle (the priority task), budget execution (revenue collection, procurement), internal control (including internal audit), monitoring, accounting & reporting, and external audit; and
 - (g) **Human Resources Specialist (short term inputs)** – to work with all agencies and the sector on HR issues particularly identification and implementation of training program (with PNG Government recurrent funding), development of HRD plans, recruitment and payroll/remuneration.

Project Management and Supervision Contractors (PMSCs)

- 9.24 There are a number of interim Project Management and Supervision Contractors (PMSCs) in place engaged by the DoW through TSSP1. The Contractor must

support the DoW to manage these projects and further support the DoW to procure and manage the PMSC for Phase 2.

- 9.25 The PMSC shall be established under a separate contract with the DoW and funded by DFAT through the DoW Trust Account. The DoW's oversight and management of the PMSC contract must be directly supported by the Component 1 Manager and other Contractor resources as required. The PMSC must be a separate process managed by the DoW in consultation with TSSP2.
- 9.26 The Bougainville PMSC shall be separately sub-contracted to the Contractor. The Contractor must supervise and manage the Bougainville PMSC.
- 9.27 The PMSC shall be responsible for working with the relevant branches of DoW/ABG DTS and NRA to ensure that there is in place:
- (a) rolling three to five year plans of roads and bridge maintenance for each TSSP Province (in Bougainville for the Bougainville PMSC) within the first twelve (12) months and that these are regularly updated to maintain the necessary project pipeline, noting that the PMSC cannot commit funds into future years beyond the contract end date;
 - (b) a robust pipeline of small, medium and large Civil Works and maintenance contracts that ensures a constant and predictable cash flow and utilises all available funding resources;
 - (c) improved standard bidding documents and engineers estimates, consistent with the requirements of the International Federation of Consulting Engineers (FIDIC) harmonised contracts for more complex activities;
 - (d) an agreed tender process with Central Supply and Tenders Board (the Bougainville Supply and Tenders Board for the Bougainville PMSC) that meet national requirements for transparency, accountability, predictability and timeliness and complies with the *principles* of the Commonwealth Procurement Rules (CPRs), with provisions as outlined in the subsidiary arrangements;
 - (e) a system for reporting Civil Works progress in a concise, accurate and timely fashion;
 - (f) a system for supervising DoW/DTS Civil Works which includes assessing PMSC supervision staff performance through the setting of performance indicators related to reporting and contract administration e.g. issue of instructions or approvals, etc.;
 - (g) arrangements to guide, instruct and mentor counterpart agency staff, particularly identified junior engineers, those in contract administration and supervision, contract pipeline and project preparation at the province office level;
 - (h) adequate systems for certifying payments to contractors and withholding payments where contract terms are not adequately met by the Civil Works contractors; and
 - (i) a Quality Assurance Plan and Supervision Manual that ensures contractual obligations are met, specifications and drawings are adhered to and records are properly prepared and filed.

- 9.28 The PMSC shall be responsible for proactively and systematically contributing to the development of the PNG consulting sector - a long term objective of the GoPNG and DFAT.
- 9.29 The Contractor must coordinate and cooperate with the PMSC and other advisers, in reflection of the partnership relationship between the GoPNG and Australia in the transport sector and to foster deeper insight into the challenges and opportunities faced during implementation. The Program Director and senior members of the Contractor's organisation and PMSC teams, must regularly meet with Senior GoPNG and DFAT representatives in the TSSPQR (also refer to **Clause 7.5** above) and will be expected to contribute from their various professional perspectives to this forum for discussion and resolution of policy constraints and implementation issues affecting the progress of TSSP2 activities. The Contractor must facilitate regular meetings and the wider coordination and networking of all TA mobilised through DFAT transport sector support.

Independent Technical Audit Contractor (iTAC)

- 9.30 Within the first 12 months, the Contractor must establish the capacity to undertake technical audits of major TSSP funded Civil Works, both during their implementation and after works are completed.
- 9.31 An independent Technical Audit Contractor (iTAC) must be tendered and sub-contracted by the Contractor. DFAT and the Program Director shall provide significant guidance in relation to the iTAC's work program.
- 9.32 The iTAC team must comprise experienced road/bridge construction and supervision engineers and pavement advisers that will go on-site to both works in progress and completed projects for inspection and testing purposes. All materials testing will be undertaken in independent professional laboratories, outside of PNG if deemed necessary.
- 9.33 The iTAC must:
- (a) carry out an annual series of audits of selected Civil Works contracts, with an emphasis on the larger and more complex rehabilitation projects, during a scheduled program of visits in-country; and
 - (b) provide reports and recommendations directly to the Secretary of Works and DFAT, to be tabled and discussed at the QRMC or TSSPQR. Responsibility for follow-up action to implement agreed recommendation shall lie with the DoW with direct supervision and support from the PMSC. All reports will be made available to the DoW Internal Audit Committee. If significant issues are unresolved after six (6) months from the date of the finalised iTAC report, they will be placed on the TSCMIC agenda for discussion.

Independent Review Group (IRG)

- 9.34 The Contractor must engage an Independent Review Group (IRG) of international experts in consultation with DFAT and the TSCMIC Chair. The IRG will be under the direction of DFAT and. The Program Director shall be responsible for preparing the terms of reference for each IRG member based upon needs at the time. The IRG members must be selected by DFAT and its missions will be managed by the Program Director and the IRG Team Leader.

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- 9.35 The Contractor shall administer the contract and manage IRG performance with oversight by the DFAT transport infrastructure unit.
- 9.36 The IRG must be mobilised on a routine and/or an ad-hoc basis to advise the TSCMIC and DFAT on strategic and program performance, including TSSP2's role in the implementation of the National Transport Strategy and other GoPNG planning documents.
- 9.37 The IRG must contribute to any reviews of the performance of the PMSC, (and the Bougainville PMSC), the Contractor, Program Director and the Core Advisers Team in accordance with their specified terms of reference.
- 9.38 The IRG must also provide strategic advice, analysis and insight into issues affecting the sector, its regulation and development.
- 9.39 DFAT shall view any attempts by the Contractor or Core Specialist Team to unduly influence the IRG's contribution to any assessment of the Contractor's or Program Director's performance as a serious breach of professional ethics which shall be reflected in the Contractor's formal Contractor Performance Assessments.
- 9.40 The IRG must have the capability of supplying a single adviser/sector member or a team of people depending upon the assignment which shall consist of, but not be limited to the following disciplines:
- (a) assets maintenance – technical engineering;
 - (b) procurement;
 - (c) project cycle management: systems and processes;
 - (d) regulatory systems and practice, particularly civil aviation and maritime sub-sector;
 - (e) organisational development, capacity development and human resource development;
 - (f) performance management;
 - (g) social and environmental impact; and
 - (h) transport economics.

Agency Support Arrangements (ASAs)

- 9.41 TSSP2 shall utilise a capacity diagnostic and support agreement process intended to emphasise that support through TSSP2 is based on a principle of progressive engagement. This shall result in the formulation of Agency Support Arrangements (ASAs) defining Australian support for specific PNG agencies. Ongoing support for an agency over the duration of TSSP2 is dependent upon satisfactory progress and the GoPNG commitment to the changes and reforms identified in the support agreement. Where progress is not evident, DFAT may withdraw, scale back or redirect assistance. The diagnostics and ASAs will therefore identify milestones and outcomes (performance indicators) to inform accurate assessment of progress through annual review processes to build on the foundations established through TSSP1. This process has commenced for some agencies during TSSP1 as part of transition activities leading to the commencement of TSSP2.

- 9.42 The Contractor must:
- (a) take over responsibility for updating and overseeing implementation of the ASAs once they are in place;
 - (b) manage the process for those PNG agencies with whom ASAs are yet to be finalised;
 - (c) source independent technical expertise for diagnostic analysis, particularly in relation to Component 1; and
 - (d) implement major elements of capacity building support under ASAs as well as managing aspects of overseeing reporting against the ASA objectives.

Strongim Gavman Program (SGP) Technical Assistance

- 9.43 Technical assistance provided through SGP shall focus on transport safety and security in the maritime and aviation sub-sectors. SGP forms part of Australia's development cooperation assistance to PNG and also reflects and contributes to the achievement of targets identified under the Partnership for Development.
- 9.44 The transport sector component of SGP currently focuses on issues of mutual interest between Australia and GoPNG transport safety and security. It is currently delivered through three adviser positions across the DoT and PNG CASA portfolios which currently are:
- (a) a Transport Strategy and Policy Adviser (embedded within the DoT). This person is the SGP Transport Team Leader and the Component 2 Manager in TSSP2;
 - (b) an Aviation Security Adviser (embedded within PNG CASA);
 - (c) a Maritime Security Adviser (embedded within the DoT); and
 - (d) Transport Safety Investigator (embedded within the AIC).
- 9.45 TSSP2 shall further integrate SGP support within the Australian transport sector program in PNG. In line with the findings of the SGP Mid Term Review, TSSP2 must aim to ensure that the scoping, management and reporting mechanisms of all Australian support are integrated and coordinated. This will enable the GoPNG to more effectively utilise the available resources where they will have greatest impact and comparative advantage.

Transport MoU Support

- 9.46 Technical assistance provided through the PNG-Australia Transport Sector Memorandum of Understanding (Transport MoU) focuses on transport safety and security. The Transport MoU encourages cooperation between the participants in relation to the safety and security of the transport network including air, maritime and possibly in the future roads. The Transport MoU will develop lasting relations between transport portfolio agencies and relevant industry participants and organisations concerned with safety and security of the transport network. Details of cooperation shall be articulated in the ASAs and developed into annual agency work plans. The integration of these processes to ensure complementarity, appropriate sequencing and coordination is an explicit aim of TSSP2 that shall be addressed through the agency diagnostics process and subsequent joint performance management process.

10. SERVICES

10.1 The Contractor must provide the following services in accordance with the Terms and Conditions of the Contract.

Services under Component 1 (Priority Land Transport Assets Maintained)

10.2 The Contractor must, under the direction of Program Director, provide the following Services:

- (a) recruit, engage, deploy and administer the Component 1 Manager (Land Transport). The duties and responsibilities of this position are given in Annex B;
- (b) coordinate and cooperate with the PMSC(s) and support DoW's oversight and management of the PMSC contract(s). The Contractor must engage productively with the PMSC(s) on a regular basis, at least but not limited to, the PMSC monthly meeting, the Quarterly Road Maintenance Committee (QRMC) and the TSSPQR meeting;
- (c) directly manage the sub-contracted Bougainville PMSC. The Component 1 Manager (Land Transport) will be the primary contact for the PMSC for technical and project issues.;
- (d) act as Secretariat and provide administrative support for the QRMC and the TSSPQR meeting including the preparation and distribution of working papers and minutes at least five (5) days in advance of meetings, compilation and distribution of agendas and minutes, the provision of meeting facilities;
- (e) support and manage organisational capacity development and sustainability initiatives for the headquarters of the DoW, NRA and DTS, as defined through agency diagnostics and ASAs;
- (f) establish, in conjunction with the DoW a small finance cell to be located in the DoW staffed by approximately three (3) people to provide oversight and verify the trust account processes utilised for DFAT funding of DoW contracts. This involves certification by the PMSC, verification by the Contractor through the finance cell and Engineering Adviser, and subsequent recommendation on follow up to DFAT. Ensure that the DoW Trust Account is independently audited on an annual basis;
- (g) if/when instructed by DFAT, through the Program Director, support and manage organisational capacity development and sustainability initiatives for the NRA.
- (h) respond flexibly to needs of the ABG and the DTS in Bougainville to build their ownership and administrative capability to oversee their transport infrastructure and maintenance program and to plan for the Region's transport infrastructure needs;
- (i) respond flexibly and effectively to manage and/or coordinate all tasks relating to the handling and development of cross-cutting issues. The Contractor will utilise adviser staff and Program resources to develop and implement programs to advance gender equality, to assist the sector in key interventions resulting from PNG's National HIV Strategy, to prioritise road safety and

disability developments, and promote and comply with PNG's legislated environmental planning and management requirements and support the DoW, NRA and DTS to factor into designs and work plans considerations relating to climate change. It is the Contractor's responsibility to proactively engage with DoW Provincial units and the PMSC to ensure adequate monitoring and reporting. The Contractor must ensure that all safeguards and cross-cutting issues are effectively implemented on all DFAT-funded Civil Works contracts or sub-contracts; and

- (j) monitor compliance, effectiveness and impact by road works contractors with relevant Australian legislation in these areas including, but not limited to, the *Environmental Protection and Biodiversity Conservation Act 1999*, DFAT's Child Protection Policy and *Work Health Safety Act*.

Services under Component 2 (Critical Transport Safety and Security Systems Operating Effectively)

10.3 The Contractor must, under the direction of Program Director, provide the following Services:

- (a) administrative, logistical and meeting support (as required) to, and work cooperatively with, the Component 2 Manager to achieve the objectives of the TSSP2 and to meet GoPNG and Australian reporting requirements as detailed in this Contract;
- (b) support and manage organisational capacity development and sustainability initiatives for agencies as defined through ASAs that is not provided via the Transport MoU arrangements. The Contractor must work with GoPNG agencies to identify and recruit Adviser expertise from the international market for highly specialised roles, both for longer term in-line deployments with PNG agencies and also for shorter term inputs;
- (c) administer funding for technical assessments of appropriate key safety and security equipment and technologies required to achieve compliance and compatibility regionally and with international and domestic regulations. This may include work sourced by Contractor, DFAT nominated personnel or by personnel sourced through the SGP and Transport MoU arrangements;
- (d) administer funding (likely to be of a limited nature) for systems and process upgrade for safety and security purposes. DFAT will only authorise such expenditure where Australia is best placed to provide that support and other funding options are not available;
- (e) organise and manage fiduciary risk assessments in close consultation with DFAT and as required support the establishment of trust accounts for individual agencies supported under Component 2. Where trust accounts are not established, either because there are delays with the fiduciary risk assessments or to do so is considered too high risk, activities with those agencies will be funded entirely by the Contractor on a reimbursable basis; and
- (f) respond flexibly and effectively to manage and/or coordinate all tasks relating to the handling and development of cross-cutting issues. The Contractor will utilise adviser staff and Program resources to develop and implement

programs to advance gender equality, to assist the sector in key interventions resulting from PNG's National HIV Strategy, to prioritise road safety and disability developments, and promote and comply with PNG's legislated environmental planning and management requirements and support PNG agencies to factor into designs and work plans considerations relating to climate change as appropriate.

Services under Component 3 (Effective Agency and Sector Engagement, Performance and Accountability)

- 10.4 The Contractor must, under the direction of Program Director, provide the following Services:
- (a) recruit, engage, deploy and administer the Component 3 Manager (Performance and Accountability). The duties and responsibilities of this position are given in Annex B;
 - (b) provide technical assistance to TSCMIC and its member agencies focusing on capacity to coordinate, monitor, advocate for and report on sector activities and on accountability and performance and effective use of resources. The Contractor must resource specific inputs from members of the Core Advisers Team to assist in this, and shall recruit, engage and manage, as directed, additional long-term and short-term advisers;
 - (c) in line with capacity building for TSCMIC and its members and capacity building within DoT to host TSCMIC, provide support as required to administer funding for goods and services for TSCMIC and its Secretariat. This will include, to the extent necessary, acting as Secretariat and administration support for TSCMIC including the preparation and distribution of working papers five (5) days in advance of meetings, compilation and distribution of agendas and minutes, the provision of meeting facilities, and the distribution of minutes within five (5) days of the meetings;
 - (d) through management of Adviser assistance, provide support to improve the flow of critical planning data to central agencies and politicians including funding impact studies to demonstrate the value of investments and inform policy decision making. This will include administering funding for data collection in agencies and by the sector as a whole;
 - (e) provide support through Adviser assistance for the continued integration of Transport MoU, and SGP monitoring and reporting with broader sector reporting;
 - (f) support Australia's implementing role in fostering the delivery of results through partnership engagement;
 - (g) provide services for Partnership Schedule dialogue meetings and events including the preparation of supporting materials and the provision of meeting facilities if required;
 - (h) provide strategic advice and support for the dialogue process. This will include research and analysis and the preparation of policy materials by Advisers (and as instructed, other Advisers to be nominated by DFAT, provided through SGP or Transport MoU sources or sourced by the Contractor) for use in the dialogue process;

- (i) administer funding for research and analysis using local and international capability;
- (j) provide technical assistance to design, contract and manage research activities;
- (k) manage contributions from members of the Core Adviser Team and short-term advisers for research and analysis;
- (l) administer funding and arrange for the publication (written and electronic) of research findings and production of information and advocacy materials; and
- (m) respond flexibly and effectively to manage and/or coordinate all tasks relating to the handling and development of cross-cutting issues. The Contractor will utilise adviser staff and Program resources to develop and implement programs to advance gender equality, to assist the sector in key interventions resulting from PNG's National HIV Strategy, to prioritise road safety and disability developments, and promote and comply with PNG's legislated environmental planning and management requirements and support PNG agencies to factor into designs and work plans considerations relating to climate change as appropriate.

Services for Agency Capacity Diagnostics and Agency Support Arrangements (ASA)

- 10.5 The Contractor must, under the direction of Program Director, take a lead role in supporting and managing the diagnostic analysis, program design and ASAs performance management processes. The Contractor must:
- (a) ensure adequate and appropriate resourcing for diagnostic analysis work;
 - (b) based on the diagnostic analysis, facilitate and develop with agencies and DFAT the ASAs;
 - (c) ensure that ASAs include appropriate Monitoring and Evaluation procedures, as well as procurement and financial management arrangements;
 - (d) manage, the provision of capacity building support as defined by the ASAs and as refined annually through the annual planning process;
 - (e) manage and contribute to the annual review process for ASAs; and
 - (f) maintain at all times strong coordination and communication arrangements with PNG agencies receiving support under the ASAs.
- 10.6 The Contractor must respond flexibly in a range of ways to recruitment, engagement and management of short-term adviser personnel required to deliver diagnostic assessment, develop ASAs and deliver programs resulting from them. Methods include, but not limited to the following:
- (a) engage, deploy and logistically support Advisers specified by DFAT and TSCMIC through the Program Director;
 - (b) directly recruit, engage, deploy and logistically support Advisers under ToR specified or approved by DFAT, through the Program Director; and
 - (c) provide logistical support to Advisers engaged and deployed through other mechanisms such as the SGP and Transport MoU.

Services relating to the Independent Review Group (IRG)

- 10.7 As directed by DFAT, including through the Program Director, the Contractor must:
- (a) administer the recruitment process to establish an Independent Review Group (IRG) within the first 12 months. DFAT will specify the ToR for the IRG, select and performance manage the IRG;
 - (b) contract and administer payments to the IRG as directed by DFAT;
 - (c) mobilise and support IRG missions this may include arranging accommodation, providing security and other inductions, facilitating meetings;
 - (d) cooperate with the IRG to ensure that data and relevant Contractor Personnel are available to enable the IRG to undertake its work;
 - (e) suggest topics or issues for analysis by the IRG as requested; and
 - (f) assist in arranging meetings with PNG agencies to present and review IRG reports.

Services relating to the independent Technical Audit Consultancy (iTAC)

- 10.8 Within the first twelve (12) months, the Contractor must:
- (a) recruit, contract establish and mobilise an independent Technical Audit Contractor team or firm (iTAC). DFAT and the Program Director will approve the ToR for the iTAC, and be involved in the selection of the iTAC;
 - (b) mobilise iTAC missions on a schedule and work plan agreed by DFAT and administer funds and provide logistical support which may include arranging accommodation, providing security and other inductions, and facilitating meetings;
 - (c) cooperate with the iTAC to ensure that data and relevant Contractor and DoW personnel are available to enable the iTAC to undertake its work. This shall include the provision of financial and management information that the Contractor possesses as a result of its own financial oversight and verification role under Component 1 including data from the financial cell operating in the DoW;
 - (d) suggest topics or issues for investigation by the iTAC as requested;
 - (e) facilitate consultation, coordination and cooperation, wherever possible, with the internal audit Branch of DoW, and any internal review units applicable to ABG and NRA work programs;
 - (f) assist DFAT, to assess options for technical audit capacity building in the transport infrastructure sector, including the roll-out of capacity building support to relevant PNG agencies if required; and
 - (g) assist in arranging meetings with DoW senior management and other PNG agencies, as relevant, to present and review iTAC Audit Reports.

Financial Management and Administrative Services

- 10.9 The Contractor must, in addition to financial management systems and the finance cell required to be set up within the DoW under Component 1, provide the following Services:
- (a) establish a dedicated procurement, financial management, accounting, reporting and internal audit system for all Contractor operations. This must support monthly financial reporting in a format acceptable to DFAT. The system must be documented in a Financial Management Manual, and Contractor Personnel must follow the system;
 - (b) identify the systems and controls necessary to safeguard money put through the Contractor into PNG systems, for instance in the form of grants to PNG agencies under ASAs. If this is required, the Contractor shall establish a process agreed with DFAT and GoPNG for disbursement of funding to PNG agencies and this will be defined in ASAs and TSSP2 Program Manuals;
 - (c) provide an acquittal on a monthly basis for reimbursement of all funds disbursed through the Contractor for TSSP2;
 - (d) review, and revise, as necessary, DFAT's TSSP Anti-Corruption Action Plan on an annual basis, submitting the updated Action Plan to DFAT; and
 - (e) undertake fiduciary risk assessments on PNG agencies as instructed by DFAT to determine appropriate fund flow mechanisms and approaches to working through PNG agency systems.
- 10.10 The Contractor must ensure that all financial systems for the Program are in accordance with the following as relevant:
- (a) PNG *Public Finance Management Act* (PFMA);
 - (b) PNG Finance Instruction 7/97: Financial Management of Donor Funded Activities;
 - (c) Accountable Grant SA (2005) between DFAT and GoPNG and the TSSP Program Subsidiary Agreement; and
 - (d) Australian Commonwealth Procurement Rules (CPRs).

DoW Road Maintenance Trust Account

- 10.11 The Contractor must oversee the operations of the DoW Trust Account. The responsibilities for management of the road maintenance trust account are described at **Table 1** below. The approach must be reviewed by the Contractor as to suitability.

Table 1: Management of DoW Road Maintenance Trust Account

Activity	Responsibility	Timing
Reviewing and updating road maintenance work plans	DoW with guidance from PMSC and Contractor	Quarterly

Activity	Responsibility	Timing
Tendering of road maintenance contracts	DoW & Contractor co-authorisation	As required after acceptance of, and in line with, updated road maintenance work plan
Management and supervision of road maintenance contracts	DoW & PMSC	Ongoing
Processing of claims and payments for the Road Maintenance Contractors	DoW & PMSC	On receipt of claims from the road maintenance contractors
Processing of claims and payments from the PMSC	DoW	On receipt of claims from the PMSC
Certifying of claims	DoW	On receipt of claims from DoW Provincial Accountants
Verifying of claims	Contractor	On receipt of claims from DoW Provincial Accountants
Authorising payment of claims	DoW	Following certification of claims
Authorising transfer of funds from DoW Trust Account to DoW Drawing Accounts	DoW	Following authorisation of payments
Endorsing transfer of funds from DoW Trust Account to DoW Drawing Accounts	Contractor	Following authorisation of payments
Transfer of funds from DoW Trust Account to DoW Drawing Accounts	DoW	Following endorsement from the Contractor
Payment of Road Maintenance Contractors	DoW Provincial Accountants	Following receipt of funds into Drawing Accounts
Payment of PMSC	DoW	Following receipt of funds into Drawing Accounts
Verification of expenditure/certifying that due process has been followed with all claims and payments	Contractor	On receipt of processed claims from DoW
Preparation of monthly Trust Account bank reconciliations by DoW TSSP finance cell	Contractor	7th working day of following month

Activity	Responsibility	Timing
Preparation of monthly Trust Account bank reconciliations by DoW	DoW	Month-end
Preparation of monthly Drawing Accounts bank reconciliations by DoW TSSP finance cell	Contractor	7th working day of following month
Preparation of monthly Drawing Accounts bank reconciliations by DoW	DoW Provincial Accountants	Month-end
Financial management reporting	DoW Finance Cell & Contractor	Monthly
Financial management reporting to DFAT (including acquittals of funds provided and projected cash flows)	Contractor	Monthly & Quarterly (within 15 days of end of each month and quarter)
Tranche requests to DFAT	Contractor	Quarterly (supported by quarterly financial reports to DFAT and updated work plans)
Release of tranche of funding to replenish Trust Account	DFAT	Quarterly, and on receipt of the TSSP's tranche request and supporting documentation
Monitoring and reviewing operation and performance of funding arrangements	Contractor	At least every six months
Reporting on operation and management of Trust Account	Contractor	Quarterly acquittals to verify trust account transactions and expenditure acquittal process

Other PNG Funding Mechanisms

- 10.12 Similar responsibilities as those outlined above in relation to the DoW Trust Account must be established by the Contractor whenever other funding mechanisms are established following a fiduciary risk assessment of PNG agencies.

Procurement Oversight Services

- 10.13 The Contractor must oversee and verify adherence to good practice for all DFAT funded procurements in line with the principles and expectations of the relevant PNG and Australian Procurement Frameworks. Where there is deviation between the PNG Framework and the Commonwealth Procurement Rules (CPRs), the CPRs

- take precedence and this deviation will be defined through ASAs and the Memorandum of Subsidiary Arrangement.
- 10.14 The Contractor must base the approach to procurement oversight on the findings of the 2011 Procurement Capacity Assessment that reviewed TSSP1 approaches as well as the outcomes of transitional activities relating to procurement oversight.
- 10.15 The Contractor must develop systems and processes to:
- (a) ensure responsibility for procurement and proof of due process and good practice remains with sector agencies whilst meeting DFAT requirements;
 - (b) ensure an independent verification process that is efficient, timely and allows sufficient opportunity for early correction or intervention by appropriate parties (including DFAT);
 - (c) ensure that support to develop agency procurement capacity is sufficiently resourced and skilled; and
 - (d) ensure formal stop/go points i.e. Letter of No Objection (LoNO) are available at key points in the procurement process and certify to DFAT that no objection should or should not be provided.
- 10.16 Further to **Clause 10.15(d)**, the Contractor must adopt a LoNO certification process based on that for TSSP1, but reviewed and strengthened.
- 10.17 For smaller and less complex contracts a single LoNO shall be issued at the point of award, prior to a contract being signed by GoPNG, which will facilitate the approval of DFAT Funding.
- 10.18 For activities above the contract value of PGK5 million or the equivalent AUD amount, or as notified by DFAT due to technical complexity (e.g. bridge rehabilitation works), a minimum two-step certification process (by LoNO) will be required.
- 10.19 The Contractor must properly review all relevant elements of procurement processes prior to certifying to DFAT that LoNO may be issued.
- 10.20 The Contractor must provide DFAT an assurance that the entire conduct of each procurement for which a LoNO is required, is beyond reproach. Accordingly, the Contractor must certify that each step of the process has been carried out as required by the provisions of the procurement sections of the PFMA, and that it satisfies good procurement practice and probity standards.
- 10.21 The Contractor must include consideration of the following issues:
- (a) Is the procurement in question necessary and appropriate for the Program?
 - (b) Is the engineer's estimate (or equivalent) of its cost as accurate as can reasonably be expected?
 - (c) Are the engineering design, technical specifications and/or terms of reference complete, accurate and of sufficient quality for public tender? Was advertising carried out appropriately and correctly? Did the tender advertisements contain all the information necessary to enable potential bidders to decide whether or not to participate in the tender?

- (d) Were the tender invitation documents complete, fully comprehensive, prepared to a high standard and neutral (i.e. not skewed in favour of any potential tenderer or tenderers)?
- (e) Was the tender period managed correctly and transparently? For example, were all tender clarification questions made only in writing; were all tender clarification responses made in writing and issued to all prospective tenderers without revealing the identity of the organisation raising the question?
- (f) Were tenders received properly and kept in secure conditions until the tender opening session?
- (g) Was the tender opening session conducted properly and transparently?
- (h) Was the tender evaluation conducted to sufficiently high professional standards, with probity, accountability and fairness?
- (i) Was the recommended contract award arrived at correctly and with professional integrity, and does the Contractor endorse it?
- 10.22 The issues detailed in **Clause 10.21(a)-(i)** above are not comprehensive, hence the Contractor is free to consider additional issues during the procurement process, and to include them in its certifications to DFAT.
- 10.23 If any of the answers to the questions posed in **Clause 10.21** above are “No”, it is unlikely that the Contractor will be able to recommend the issuance of a LoNO. In such event, the Contractor must provide a full report to DFAT of the unsatisfactory work elements in question, and recommend to DFAT what action, if appropriate, it should take instead of issuing a LoNO.
- 10.24 The Contractor must provide a summary report of the quality of the procurement process for all major TSSP procurements (above PGK 5 million in value) for which a minimum two (2) stage LoNO process is applied. The report should make recommendations for improvements of the process where relevant and practical.
- 10.25 Some aspects of the PNG National Legislative Framework are in conflict with internationally accepted good procurement practice. Two of the most critical aspects are itemised below:
- (a) Applicable to all Public Contracts:
 “Section 41 of the *Public Finances (Management) Act 1995* states that contracts below PGK 1 million may be restricted to national bidders only”.
- (b) Applicable to Contracts placed by Public Bodies:
The PNG Financial Management Manual provides that:
 “2.1 Public bodies and subsidiary corporations must restrict invitations to tenders up to the value of PGK 5 million only to businesses that are completely nationally owned or to certain categories of resident companies which have demonstrated a long-term commitment to supporting national subcontractors and the training of local staff (Part 24, Division 2, Paragraph 6.3).
 “2.2 The same rule applies for contracts between PGK 5 million and PGK 10 million, but with the relaxation that joint venture companies or consortia with

up to 50% overseas participation may also be invited to tender (Part 24, Division 2, and Paragraph 6.5)."

- 10.26 The provisions of the PNG National Legislative Framework outlined at **Clause 10.25** are unacceptable for all TSSP2 procurement, and are prohibited from being followed. The Contractor must:
- (a) ensure that all TSSP2 procurements comply with the prohibitions, and
 - (b) report to DFAT any instances where a TSSP2 partner agency ignores the prohibitions or states an intention to do so.
- 10.27 ASAs may define additional prohibited provisions. The Contractor must ensure in such cases that all TSSP2 procurements comply with any additional prohibitions stated in ASAs, in order to also comply with the principles of the Commonwealth Procurement Rules.
- 10.28 The Contractor must, in the Financial Management and Procurement Manuals, outline their resourcing and approach to effectively deliver oversight of procurement.

Communications Services

- 10.29 The Contractor must:
- (a) provide technical assistance support and administer funding for the establishment of an effective communications strategy for the sector including maintenance of the TSSP website, engagement and communication with stakeholders and the publication of reports and reviews;
 - (b) have the expertise to implement the communications strategy and provide promotional materials on the role and activities of TSSP2. These materials may include short written or visual articles for trade and professional journals and ad-hoc information material as required;
 - (c) facilitate and oversee regular networking, information exchange, public relation communications management and coordination between all transport sector TA supported by DFAT funding through robust programs of orientation, dialogue, interaction and workshopping; and
 - (d) ensure appropriate branding and recognition of all DFAT funded activities.

Monitoring and Evaluation (M&E) Services

- 10.30 The Contractor must build on the M&E systems developed under TSSP1 to ensure continuity with existing data sets and narratives, but enhance it progressively. TSSP2 will provide an opportunity to further assist agencies in robustly and transparently collecting their own information to support emerging PNG Government requirements for agencies to develop performance frameworks and indicators and strengthen internal M&E capacity.

Sector M&E Requirements

- 10.31 The Contractor must, under the direction of the Program Director:
- (a) ensure that the Sector Performance Specialist and the Agency M&E and Reporting Specialist of the Core Specialist Team are resourced to cooperate

on sector wide M&E development activities, along with their counterparts in the transport infrastructure sector agencies;

- (b) support and resource Component Managers in their responsibility for ensuring necessary systems and processes are in place to access and coordinate program data and information under each Component. Specifically for Component 1 ensure systems are in place to collate performance data for M&E purposes from PMSC and Bougainville PMSC activities;
- (c) support and resource the incorporation of results from monitoring by the IRG and iTAC reports into sector wide M&E development activities;
- (d) identify the need to collect baseline data for program components and to meet M&E information requirements and, where it is not otherwise available, propose options to undertake the design and collection of such baseline data; and
- (e) ensure TSSP2 reporting can adopt GoPNG reporting processes.

Program M&E Requirements

10.32 The Contractor must:

- (a) review existing approaches to M&E and the indicative M&E Framework;
- (b) based on the review undertaken in **Clause 10.31 (a)** above, establish systems and an approach to report on and measure performance, using both internal and external resources as required;
- (c) ensure that the systems address the information requirements of the ASA, Partnership Schedule, DFAT Comprehensive Aid Policy Framework, GoPNG planning documents, e.g. the MTDP, and other high level GoPNG and Australian frameworks that may be established from time to time; and
- (d) ensure that the M&E Manager is resourced to achieve the Contractor's responsibilities.

11. PERFORMANCE MANAGEMENT

Contractor Performance Assessments

- 11.1 The assessment of the Contractor's performance shall be on an annual basis with the first assessment being held no later than one (1) year after the Contract start date in accordance with **Part 3 (Contract Management) Clause 36**. DFAT shall manage the performance assessment process. DFAT may consult relevant stakeholders, counterparts of GoPNG, and others, as part of the Contractor Performance Assessment.
- 11.2 Performance criteria will be in accordance with **Schedule 11** of the Contract.
- 11.3 The Contractor Performance Assessment shall focus on how well the services and response times have progressed over the previous period, as well as identifying any constraints or issues (on both parties) that need to be resolved or improved.
- 11.4 At the end of each year of the Contract DFAT must notify the Contractor of the Draft Performance Assessment outcomes. The Draft Performance Assessment outcomes must be discussed by DFAT and the Contractor at a formal meeting no

later than fourteen **(14) days** after the Contractor receives the Draft Performance Assessment Report. Subsequent to this discussion, DFAT shall formally inform the Contractor of its assessment. The Contractor will have the opportunity to place its response on record within twenty eight (28) days.

- 11.5 Where the Contractor receives a “less than satisfactory,” or lower performance assessment on 20% or more of the criteria, DFAT may conduct an additional performance assessment six (6) months later. If the additional assessment determines that the Contractor’s performance is still less than satisfactory on 20% or more criteria DFAT may seek further remedy in accordance with the Terms and Conditions of this Contract (for examples see **Clause 51-53 of Part 6** (Remedies, Disputes and Termination)).
- 11.6 In the event of a dispute between DFAT and the Contractor over the Contractor’s performance, the standard Dispute Resolution Clause of the Contract **Clause 51-53 of Part 6** (Remedies, Disputes and Termination) will be utilised.

Adviser Performance Assessment

- 11.7 The Contractor shall be directly responsible for managing the performance of all Contractor Personnel in close coordination or jointly with GoPNG management where relevant and as defined in ASAs.
- 11.8 The Contractor must conduct Adviser Performance Assessments on all Specified Personnel in accordance with **Schedule 12** of the Contract.

Component Managers and Core Adviser Team Members Performance Management

- 11.9 The Contractor shall be responsible, with the Program Director, for performance management of the two (2) Component 1 and Component 3 Managers and Core Adviser Team members.
- 11.10 DFAT may, from time to time, instruct the Contractor to conduct an independent management audit with the ToR to be agreed with DFAT.

12. OFFICE OPERATIONS

- 12.1 The Contractor must establish and maintain a fully operational, appropriately furnished, full-time office in Port Moresby.
- 12.2 The office must provide a safe, secure working environment that is easily accessible to personnel. Arrangements for emergency power and water (during any blackouts) as well as other supportive facilities must be in place so that staff and visitors are able to continue to function effectively.
- 12.3 The office must have access for people with disability and be planned in a way that offers a secure, welcoming environment.
- 12.4 The office must be set up to incorporate appropriate levels and quality of communication, IT, the network and Management Information Systems, as well as other equipment to facilitate the effective management and secure storage of records, electronic and paper data storage, contracts, as well as special measures for holding confidential information.
- 12.5 The Contractor must provide office space for the Program Director.

13. WORK HEALTH AND SAFETY (WHS) MANAGEMENT

- 13.1 The Contractor must, within one (1) month of the Service Order Start Date, submit to DFAT, an electronic copy of its Work Health and Safety (WHS) Management System. As a minimum, the Contractor's WHS Management System must demonstrate compliance with all the duties of a person/organisation with a business or undertaking (PCBU) as specified under WHS legislation.
- 13.2 The WHS Management System shall include:
- (a) WHS Policy;
 - (b) WHS objectives and targets; and
 - (c) Organisational structures, WHS roles and responsibilities in-country.
- 13.3 The WHS management system procedures shall include:
- (a) Consultation and communication;
 - (b) WHS hazard management;
 - (c) Construction risk management
 - (d) Emergency preparedness and response;
 - (e) Auditing and inspections;
 - (f) Performance monitoring;
 - (g) Training and induction;
 - (h) Management review; and
 - (i) Safe work practices
 - (j) Performance reporting.

14. REPORTS, MANUALS AND PLANS

- 14.1 All reports, manuals and plans must:
- (a) be provided in accordance with the specification under **Part 4** (Records, Audit and Reports) **Clause 43**;
 - (b) be accurate and not misleading in any respect;
 - (c) be prepared in accordance with DFAT requirements;
 - (d) allow DFAT to properly assess progress under the Contract;
 - (e) be provided in a format and on media approved or requested by DFAT;
 - (f) not incorporate either the DFAT or the Contractor's logo;
 - (g) be provided at the time specified in this Schedule 1; and
 - (h) incorporate sufficient information to allow DFAT to monitor and assess the success of the Services in achieving the objectives of DFAT's relevant cross-cutting policies and policy framework.
- 14.2 The Contractor must ensure that all Contract Material which is provided to DFAT under this Contract complies with DFAT's Guidelines for Preparing Accessible Content (available from DFAT's website).

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Schedule 1

- 14.3 The reports, manuals and plans detailed below are to be provided within ten (10) working days at the end of the period to which the report relates, unless otherwise agreed. The Contractor is to amend the reports as reasonably requested by DFAT.
- 14.4 DFAT may from time to time, after consultation with the Program Director and Contractor, amend the timing and/or detail required in the reports and/or the type of reports required, in response to the needs of the Program. Changes to the summary reporting due date of less than one (1) month will not require a contract amendment.

Report Summary

- 14.5 The following reports are required to be submitted by the Contractor and are detailed further in subsequent clauses:
- (a) Establishment Report;
 - (b) Exception reporting;
 - (c) Regular Informal reporting including reports for TSCMIC or PNG agencies;
 - (d) Financial Reports;
 - (e) Progress Reports;
 - (f) Annual Sector Performance Reports;
 - (g) Completion Report; and
 - (h) Work Health and Safety Report.

Establishment Report

- 14.6 The Contractor must submit electronically and three (3) bound copies of an Establishment Report through the Program Director, to DFAT for approval, within three (3) months of the Contract start date.
- 14.7 The Establishment Report is to:
- (a) provide a clear statement of understanding of the activities required and the Contractor's contribution to the strategic Program level outcomes for each Component;
 - (b) include as Annexes the following manuals and plans as detailed in **Clause 14.21(a)**: Financial Management Manual, **Clause 14.21(b)**: Procurement Manual and **Clause 14.21(c)**: Program Procedure Manual; and
 - (c) confirm the staff and other resources identified as being required to provide the specified services. As part of this, any mismatch between the resources specified in this Schedule 1, and those thought to be required by the Contractor, must be identified and justified.

Exception Reporting

- 14.8 The Contractor must provide advice to the First Secretary Transport Infrastructure, immediately upon identification, of any major unforeseen problems or risks arising in the Program that may have a detrimental effect on the Program, particularly in relation to achievement of the outcomes of the Program. Exception reporting to be submitted electronically only to the Program Director.

Regular Informal reporting

- 14.9 The Contractor must provide regular informal reporting through the Program Director to TSCMIC, PNG agencies and DFAT as required or requested in a media to be agreed for individual requests.

Financial Reports

- 14.10 The Contractor must provide to DFAT monthly Financial Reports covering financial management of TSSP2 activities and the operation of any trust accounts and fund flow mechanisms. The Contractor must submit Financial Reports electronically and with one (1) printed copy.
- 14.11 The Contractor must review expenditure to verify that it has been made in accordance with the requirements of the Financial Management Manual (refer to **Clause 14.21(a)** of this Schedule). The Contractor must identify, within the financial reports, any processes or systems that, in its opinion, may inhibit accountable and transparent expenditure processes.
- 14.12 The Financial Report must also contain a section discussing ongoing, planned procurements and any issues that emerge.

Progress Reports

- 14.13 The Contractor must prepare and submit to DFAT and the TSCMIC, through the Program Director, a six monthly progress report, prepared to an agreed format. The Contractor must provide DFAT and each TSCMIC member with the Progress Report electronically and in hard copy (numbers of copies to be agreed).
- 14.14 The Progress Report must include, as a minimum:
- (a) a review of progress against each Program Component;
 - (b) financial report covering total expenditure to date, reimbursable costs and total expenditure against each Component; and
 - (c) a comprehensive risk analysis.

Annual Sector Performance Report

- 14.15 At the end of each calendar year the Contractor must in an agreed format provide an Annual Sector Performance Report to DFAT and TSCMIC through the Program Director. The Annual Sector Performance Report shall be informed by:
- (a) the information requirements of Sector Monitoring and Evaluation Framework;
 - (b) the findings of the Progress Report;
 - (c) the Program Monitoring and Evaluation Plan developed by the Contractor; and
 - (d) A draft must be submitted to DFAT by 20 December and the final approved report delivered by the end of January of each year.

Completion Report

- 14.16 The Contractor must prepare a Completion Report (CR) in accordance with DFAT instructions which addresses the following issues, upon completion of the Contractor's role in TSSP2:
- (a) confirm the Program has been implemented according to the processes specified;
 - (b) examine actual Program achievements and milestones against objectives;
 - (c) quantify progress towards the Scope of Services which has been identified for completion under the Program;
 - (d) provide a full reconciliation and acquittal of Program funds;
 - (e) document lessons learned from the Program;
 - (f) identify any obstacles to implementation;
 - (g) advise of any implications from this Program for future activities in PNG in the transport infrastructure sector; and
 - (h) provide a comprehensive Asset Register for any further phase of the TSSP program, or recommendations for asset handover to GoPNG agencies.
- 14.17 Three (3) bound copies and one electronic copy of the draft CR are to be submitted to DFAT within six (6) weeks of the scheduled completion date of the Program for comment. DFAT must provide comments in a timely manner.
- 14.18 Three (3) bound copies of the final CR must be submitted within 30 days of receipt of DFAT's written comments.

Work Health and Safety Performance Report

- 14.19 The Contractor must submit on a quarterly basis, a WHS Performance Report as evidence of the on-going performance of the Contractor's WHS Management System. As a minimum the WHS Performance Report shall address the following:
- (a) Number of incidents;
 - (b) Incident types;
 - (c) Nature of incident;
 - (d) Number of hazards;
 - (e) Hazard types: and
 - (f) Compliance issues.
- 14.20 DFAT may request from the Contractor at any stage, risk assessments, completed WHS inspections and audit reports.

Manuals

- 14.21 The Contractor must review, develop subsequent versions and implement the following Manuals:
- (a) **Financial Management Manual:** The Contractor must prepare and submit to DFAT, through the Program Director, within **one (1) month** of the Contract

start date, a revised Financial Management Manual which defines the financial management approach for the Program. This Manual must contain as a minimum:

- (i) the financial and accounting systems that are to be established and budgeting and forecasting procedures that include estimating the cost of workplans and specific physical tasks and inputs including monthly cash flow by activity; and
 - (ii) the processes by which the Contractor will meet the responsibilities are detailed in the 'Financial Management and Administrative Services' section outlined above.
- (b) **Procurement Manual:** The Contractor must prepare and submit to DFAT, through the Program Director, within **one (1) month** of Contract start date, a Procurement Manual which defines the approach to procurement and procurement oversight for the Program. This Manual must as a minimum contain:
- (i) the processes and mechanisms which include anti-fraud and anti-corruption measures as well as oversight and verification processes to be followed by the Contractor when supporting activities tendered by PNG agencies. These processes will also be required to be reflected as appropriate in ASAs;
 - (ii) the processes and mechanisms to be followed by the Contractor when procuring goods and services within the Program; and
 - (iii) the processes by which the Contractor will meet its procurement oversight responsibilities as detailed in the 'Procurement Oversight Services' section above.
- (c) **Program Procedures Manual:** The Contractor must prepare and submit to DFAT, through the Program Director, within **three (3) months** of the Contract start date, a Program Procedures Manual which defines the procedures to be adopted by the Contractor. This Manual shall contain, as a minimum:
- (i) Program implementation methodology;
 - (ii) a summary of Financial Management and Procurement approaches;
 - (iii) management coordination, liaison and communications mechanisms with stakeholders;
 - (iv) Program management requirements including planning, scheduling and monitoring formats;
 - (v) quality assurance strategies, plans and systems, format and scheduling for works and service orders, invoicing and reporting framework;
 - (vi) contracting strategy options for technical assistance activities; and
 - (vii) occupational health and safety.

Plans

- 14.22 The Contactor must review, develop subsequent versions and implement the following plans:
- (a) Security Plan;
 - (b) Risk Management Plan;
 - (c) Sector Monitoring and Evaluation (M&E) Framework;
 - (d) Program Monitoring and Evaluation Plan
 - (e) Anti- Corruption Action Plan;
 - (f) Communications Plan;
 - (g) Gender, HIV/AIDS, Disability and Environment Plans;
 - (h) Annual Implementation Plan;
 - (i) Fraud control strategy
 - (j) Handover Plan; and
 - (k) Project Vehicle Plan (if applicable)
- 14.23 In accordance with **Part 7** (Project Specific Conditions) **Clause 74.2**, the Contractor must prior to mobilisation, develop and implement a **Security Plan** to ensure the safety and security of Contractor Personnel and property in PNG. The Contractor must:
- (a) provide a copy of Security Plan to DFAT prior to mobilisation; and
 - (b) provide DFAT with copies of the Security Plan whenever it is subsequently revised.
- 14.24 In accordance with **Part 7** (Project Specific Conditions) **Clause 75.1(i)**, the Contractor must within **thirty (30) days** of Contract start date, submit to DFAT a **Risk Management Plan**. The Risk Management Plan must include consideration of DFAT's Business continuity planning and contain provisions for advance notification of DFAT of risks that may lead to disruption or delay to the Program. The Risk Management Plan must identify:
- (a) all significant risks that can be reasonably anticipated in respect to TSSP2;
 - (b) the level of probability of the risks eventuating;
 - (c) the impact on the TSSP2 if the risk eventuates, along with possible options for ameliorating the risk;
 - (d) the entity(ies) responsible for managing the risk; and
 - (e) the approach to be taken to mitigate any impact. Risk monitoring, minimisation and mitigation strategies shall be developed and implemented by the Contractor.
- 14.25 In accordance with **Clause 27.2 of Part 2** the Contractor must, within **one (1) months** of the Contract start date, undertake a fraud risk assessment and submit to DFAT a Fraud control strategy. The risk assessment and strategy must contain

- appropriate fraud prevention, detection, investigation and reporting processes and procedures
- 14.26 The Contractor must, within **three (3) months** of the Contract start date, submit to DFAT, through the Program Director, an electronic and three (3) bound copies of a **Sector Monitoring and Evaluation (M&E) Framework**. The Framework shall:
- (a) explain how the Contractor shall deliver the services as detailed in **Clauses 10.30 and 10.31** of this **Schedule 1**;
 - (b) set out how M&E information shall be reported, recorded and made available to DFAT and TSCMIC; and
 - (c) set out the M&E Framework for the Program.
- 14.27 In accordance with **Clause 10.31** of this Schedule, the Contractor must, within **three (3) months** of the Contract start date, submit to DFAT, through the Program Director, an electronic and three (3) bound copies of a **Program Monitoring and Evaluation Plan**. The Plan shall:
- (a) explain how the Contractor shall monitor the performance of GoPNG Agencies, Technical Advisers, short-term consultancies and sub-contractors and assess the lessons, outcomes, impact and success or otherwise of individual TSSP activities and consultancies.
- 14.28 The Contractor must, within **three (3) months** of the Contract start date, submit to DFAT, through the Program Director, an electronic and three (3) bound copies of an **Anti-Corruption Action Plan**. The Action Plan shall:
- (a) explain how the Contractor will prevent, monitor, investigate and address instances of fraud and corruption; and
 - (b) include anti-fraud measures.
- 14.29 The Contractor must develop a **Communications Plan**, and submit it through the Program Director to TSCMIC and DFAT for approval, within **three (3) months** of the Contract start date, that:
- (a) identifies the communication needs of all key stakeholders;
 - (b) ensures ongoing community participatory involvement and communication;
 - (c) defines, as a minimum, the means of communication, the frequency of communication and the responsibilities of the various agencies and departments in establishing communications; and
 - (d) considers a range of communication options including, but not limited to, the preparation and distribution of brief periodic newsletters or flyers to highlight specific achievements or developments under TSSP2.
- 14.30 In accordance with **Part 7** (Project Specific Conditions) **Clause 61**, the Contractor must, within **three (3) months** of the Contract start date, submit to DFAT electronically and three (3) bound copies, its strategy and related plan to ensure compliance with each of DFAT's policies on Gender, HIV/AIDS, Disability and the Environment.

- 14.31 In accordance with **Part 7** (Project Specific Conditions) **Clause 72**, the Contractor must provide, through the Program Director, to DFAT and TSCMIC an **Annual Implementation Plan** in **mid-November**, and final agreed version by **end of December** each year, electronically and minimum of three (3) bound copies.
- (a) Annual planning will be based on a multiyear planning and resourcing framework informed by the individual ASAs that will be reviewed annually. The Annual Implementation Plan will be the major planning document for the Program following PNG budgeting year cycles as its reference, which is currently calendar year;
 - (b) Ensure consultation with all stakeholders occurs throughout the annual planning process so as to facilitate final approval; and
 - (c) Development of the Annual Implementation Plan must support and be informed by the results of Program reporting, monitoring and evaluation.
- 14.32 In relation to the remaining period of 2014, the Contractor must review the prepared 2014 Annual Plan immediately upon mobilisation and take steps to deliver the remainder of the activities set out in the Plan over remainder of 2014.
- 14.33 In accordance with **Part 7** (Project Specific Conditions) **Clause 59**, the Contractor must within **twelve (12) months** of the Contract start date provide DFAT with electronic and three (3) bound copies of the draft **Handover Plan**. The Contractor must update the Handover Plan at least annually and six (6) months ahead of the Program end date in accordance with **Part 7** (Project Specific Conditions) **Clause 59**.
- 14.34 The Contractor must develop a **Project Vehicle Management Plan** within twenty-eight (28) days of the Project Start Date, listing the obligations and responsibilities associated with managing the Project Vehicles including ensuring compliance with, but not limited to the following:
- (a) Roles and Responsibilities (Vehicle Manager/Vehicle Operator);
 - (b) Vehicle Acquisition, Replacement and Disposal;
 - (c) Vehicle Registration, Project Vehicle Usage Code of Conduct, Driver Authorisation, Designated Drivers and Care of Vehicles;
 - (d) Private use contribution (Contractor/Operational Personnel/Advisers);
 - (e) Motor Vehicle Insurance/Accidents and Accident Reporting;
 - (f) Vehicle Inspection and Maintenance; and
 - (g) Project Fuelling Policy

ANNEXES:

Annex A Advisers/Specified Personnel – Terms of Reference

Annex B Component Managers – Terms of Reference

Annex C Core Specialist Team – Terms of Reference

ANNEX A: ADVISERS/SPECIFIED PERSONNEL – TERMS OF REFERENCE**Generic Conditions**

The following generic conditions shall apply to all ToRs:

- Continually maintain high standards of behavior and ethics in the delivery of results to PNG stakeholders (e.g.: consultative, high integrity, respectful, professional, and ethical and people values);
- Maintain productive, professional and cordial relationships with counterparts.
- Establish collegial relationships among and between the Program Director, the DFAT Infrastructure team, the TSSP2 team and technical advisers, and SGP and Transport MoU personnel including regular communications, meetings, workshops and information sharing;
- Provide timely advice to the Program Director and the Team Leader on program implementation matters including context and risk and provide regular updates on program implementation;
- Contribute to the provision of timely strategic thinking and analytical advice to the Program Director and DFAT on achieving the Partnership for Development Transport Schedule's outcomes and other topics as requested;
- Contribute to TSSP2's Agency Capacity Diagnostic and ASA processes and the identification of appropriate forms of capacity building to meet needs; and
- Ensure high quality targeted capacity development support in accordance with DFAT operational guidance and geared to the needs of GoPNG agency senior management.

TEAM LEADER

ARF Classification: C4
Reports to: DFAT, but on a day to day basis to the Program Director
Term: Full Time
Location: Port Moresby, Papua New Guinea

Position Description

The Team Leader shall be responsible for all administration, management and quality aspects of the TSSP2 Team as well as management of all services provided by the Contractor including delivery of capacity building and technical assistance and supply of other key deliverables to achieve the outcomes of the TSSP2 Program.

The Team Leader must liaise between the Program Director, broader Contractor management team and other stakeholders.

The Team Leader shall be responsible for the performance of the Contractor team, the conduct and performance of capacity building and governance advisors and other contractors with clear accountability for performance management of all aspects of the Contract.

Specific Duties

The Team Leader shall:

Relationships

- continually reinforce the importance of high standards of behavior and ethics in the delivery of results to stakeholders (e.g. consultative, high integrity, respectful, professional and ethical);
- establish and manage collegial and outcomes focused relationships between the Program Director, DFAT Infrastructure Team, the TSSP2 Team and broader program personnel such as advisers including regular communications, meetings, workshops and information sharing;

Team management

- lead the TSSP2 Team and monitor team members' and advisers' performance in their area of responsibility;
- ensure timely and effective mobilisation of Contractor recruited staff, offices and support facilities including logistics and security;
- create and maintain a positive, supportive and team focused work environment;
- manage performance related matters assertively, promptly and fairly;

Overall TSSP2 management

- implement approved plans and procedures ensuring quality assurance processes and strategies are adopted;
- manage in-country operational performance of the Contract and regular communications with the Program Director and DFAT on proposed plans, procedures, systems and deficiencies requiring remedial action;
- provide TSSP administrative support as directed by the Program Director to TSCMIC, its members, to achieve the delivery of outcomes;
- provide services in accordance with the agreed areas as set out in ASAs and annual plans, including technical assistance, monitoring and evaluation and financial and procurement oversight.
- maintain high quality administrative, financial systems and audit processes capable of producing timely and accurate information on the status of inputs and activities;
- with agency heads, Component Managers and the Program Director, ensure that adviser work plans and other technical assistance is aligned with, and contributes directly towards TSSP2 outcomes as defined in particular through ASAs;
- address DFAT's gender equality policy and approach to addressing violence against women and HIV/AIDS appropriately in all TSSP2 activities as well as other safeguard areas such environmental protection and disability;
- be responsible for the quality and implementation of all program manuals, systems and processes in accordance with the Contractor's Scope of Services and consistent with DFAT guidelines;
- develop Exception Reporting protocols to address any urgent and emerging issues;
- be responsible for the quality and implementation of program strategies including performance management, risk management;
- support the development and effective implementation of a TSSP2 communications and public relations strategy;
- ensure effective linkages between program personnel and across the sector is achieved to ensure effective cross program learning; and
- ensure availability, participation and cooperation in reviews, audit or other Program review endorsed by DFAT.

Core Competencies

- Demonstrated professional leadership and high level management experience.
- Proven ability to lead and manage a team of professionals in an international development context.
- Strong knowledge and experience in areas of project management and organisational development with experience in aspects of transport infrastructure, safety and security an advantage.
- Demonstrated experience in design and implementation of capacity development approaches.

- Demonstrated experience in working with a range of development modalities and development partners.
- Experience working in Papua New Guinea or the Pacific or similar developing country context.
- Experience in design and implementation of quantitative and qualitative approaches to monitoring of results; and
- Key personal attributes to include:
 - Collaborative and partnership style of working;
 - Flexibility and responsiveness;
 - Team leader and team builder;
 - High level problem solving skills;
 - Highest level of integrity and ethics; and
 - Excellent communications skills.

**PROGRAM COORDINATOR
(Deputy Team Leader)**

ARF Classification: C3
Reports to: Team Leader
Location: Port Moresby, Papua New Guinea
Duration: Full-time

Position Description

The Program Coordinator (Deputy Team Leader) shall support the Team Leader administer the program focusing on preparing the Annual Implementation Plans, undertaking agency diagnostics and developing Agency Support Arrangements (ASAs).

Specific Duties:

The Program Coordinator shall:

- provide administrative support as directed by the Program Director to TSCMIC, its members, and DFAT to achieve the delivery of outcomes;
- coordinate and manage all capacity development diagnostic activities and the preparation of the resulting ASAs;
- oversee with the Recruitment and Program Procurement Manager the procurement of TSSP2 capacity building inputs, technical assistance and research management;
- ensure all necessary arrangements are in place to ensure the safety and security of TSSP personnel including office, accommodation and travel in-country;
- assist in the development of activity and Annual Implementation Plans and provide analysis and assessment of budget and policy proposals and implementation effectiveness;
- organise, facilitate and report on adviser and technical networking across TSSP and communicate emerging trends and issues arising;
- provide timely advice to the Program Director and DFAT through the Team Leader on program implementation matters and provide regular updates on program implementation;
- attend meetings with TSCMIC, DFAT, agencies and the Program Director as required;
- coordinate the TSSP2 components of the TSSP2 Annual Implementation Plan and ASAs;
- provide support to the Team Leader to ensure the Contractor's responsibilities are met in a timely manner, within budget framework and according to DFAT program policies and procedures; and
- ensure timely contribution to reporting.

Skill Requirements:

- Demonstrated management experience in managing and coordination of a team of professionals in a developing country context.
- Demonstrated experience in sourcing and managing high quality capacity building/technical assistance.
- Demonstrated experience in managing quality processes.
- Key personal attributes include:
 - Collaborative and partnership style of working;
 - Strong communication and liaison skills;
 - Flexibility and responsiveness;
 - Good management and coordination skills;
 - Team building and coordination; and
 - High level problem solving skills; and
 - Highest level of integrity and ethics.

RECRUITMENT AND PROGRAM PROCUREMENT MANAGER**ARF Classification:** C3**Reports to:** Team Leader**Location:** Port Moresby, Papua New Guinea**Duration:** Full-time**Position Description**

The Recruitment and Program Procurement Manager shall be responsible for assisting the Team Leader and Program Coordinator to oversee the recruitment and performance management of all TSSP2 advisers and staff, working in close consultation with the TSSP2 Team.

Specific Duties

The Recruitment and Program Procurement Manager shall:

- with the Program Coordinator, identify the technical assistance requirements for the TSSP2 in each approved Annual Implementation Plan and Agency Support Arrangements (ASAs) and develop a recruitment and procurement plan;
- manage Contractor service provision sub-consultancy contracts with the assistance of the Program Coordinator;
- ensure the timely identification, recruitment, mobilisation, security and logistics support and on-going human resources and performance management for any TSSP2 personnel, consistent with terms and conditions under the Adviser Remuneration Framework and DFAT's guidelines and policies regarding use of technical assistance;
- identify and sub-contract suitable research, twinning, training organisations or other technical assistance as required through the Annual Implementation Plan and ASAs;
- identify and sub-contract suitable systems diagnostic and process improvement expertise;
- coordinate all locally engaged recruitment from advertising to mobilisation and orientation to demobilisation and exit;
- coordinate with the Contractor's head office all internationally sourced personnel from advertising to mobilisation and orientation to demobilisation and exit;
- liaise with the TSSP2 Team, the Program Director and sector partners to develop, finalise and obtain agreement on terms of reference and conduct interviews with sector partners;
- coordinate and liaise with the TSSP2 Team on visa processing for all international advisers and core personnel;
- coordinate exit interviews at the conclusion of international adviser contracts;
- provide oversight and liaise with the TSSP2 Team to manage the smooth demobilisation of exiting international advisers;
- promote a supportive work environment for all technical advisers;

- develop a process and system appropriate to PNG for the performance of agency based advisers to be assessed by their working counterparts and for counterparts to make a contribution to the performance assessment of the Core Specialist Team;
- provide support to the Team Leader on any performance issues that may arise;
- liaise with the TSSP2 Team for technical training and support to assist staff to remain up-to-date with technical knowledge and skills in order for them to perform well in their roles;
- provide fortnightly HR updates to all TSSP2 personnel and revise;
- support the Team Leader where required on other activities related to TSSP2 administration and assistance such as the contractor performance, internal reviews and other DFAT requests; and
- support and facilitate, where appropriate, HIV mainstreaming, gender development and all relevant cross-cutting issues.

Core Competencies

- Demonstrated experience in human resource management including in performance management.
- Demonstrated experience in sourcing, contracting and managing high quality capacity building/technical assistance.
- Key personal attributes include:
 - Collaborative and partnership style of working;
 - Strong communication and liaison skills;
 - Flexibility and responsiveness;
 - Good management and coordination skills;
 - Team building and coordination;
 - High level problem solving skills; and
 - Highest level of integrity and ethics.

MONITORING AND EVALUATION MANAGER**ARF Classification:** C3**Reports to:** Team Leader**Location:** Port Moresby, Papua New Guinea**Duration:** Full-time**Position Description:**

The Monitoring & Evaluation (M&E) Manager shall be responsible for assisting the Team Leader to oversee the implementation of the Contractor's contractual requirements to provide quality monitoring and reporting on TSSP2's inputs, outputs and outcomes. The position is focussed on the Contractor's direct responsibilities for internal performance data collection and analysis and will work closely with the Sector Performance Adviser. (The Sector Performance Adviser will concentrate on the contribution TSSP2 makes to sector outcomes and in particular the Annual Sector Performance Report reporting on the National Transport Strategy, the MTTP and the MTDP.)

Specific Duties:

The Monitoring and Evaluation Manager shall:

- develop and maintain TSSP2's monitoring and evaluation requirements as specified in the design documentation, the Contract and in each approved Agency Support Arrangement (ASAs) and Annual Implementation Plan through a dynamic and updated TSSP M&E Framework (MEF) which focuses on most relevant and useful performance information. This position links TSSP2 program inputs to results and to overall program outcomes, from activity to ASAs through to program level;
- maintain the MEF including:
 - developing program templates, systems and other processes to support the production of performance reports under the MEF;
 - monitoring innovation in the field of M&E and providing advice to the Program Director and Team Leader on improvements to the MEF, particularly the reporting of effectiveness and impact;
 - ensuring cross-cutting issues are reported regularly;
 - ensuring the timely collection of data and information and the production of reports required under the MEF including adviser reports; six monthly activities reports; annual program report; ad hoc reports requested by DFAT or needed to support DFAT's internal reporting requirements; and
 - supporting the Independent Review Group in its work.
- in collaboration with the Program Finance Manager and Procurement team, report program financial and procurement compliance;
- undertaking capacity development activities with advisers and other contractors to ensure that all those who make contributions to TSSP2 have clear outputs and are focused on outcomes and report accurately on their progress and achievements;

- providing advice to the Program Director, Team Leader, TSSP2's team members, and TSSP2 Core Specialist and advisers on incorporating monitoring, evaluation, reporting and improvement principles into their work practice;
- working with the Recruitment and Program Procurement Manager to identify, sub-contract and manage suitable research and analysis when required under the Annual Implementation Plan;
- contribute to the M&E diagnostic process for identifying agency capacity needs and process improvement expertise; and
- support and facilitate, where appropriate, HIV mainstreaming and gender development and all relevant cross-cutting issues.

Core Competencies:

- Demonstrated experience in implementing and managing M&E systems comparable to that required in TSSP2.
- Demonstrated experience in change management, capacity development and organisational development.
- Demonstrated work experience in international development and a solid understanding and practical experience in improving aid effectiveness.
- Above average skills in the use of electronic media, presentation and publication software.
- Key personal attributes to include:
 - Collaborative and partnership style of working;
 - Strong communication and liaison skills;
 - Flexibility and responsiveness;
 - Good management and coordination skills;
 - Team building and coordination; and
 - High level problem solving skills.

COMMUNICATIONS MANAGER**ARF Classification:** A4**Reports to:** TSSP Team Leader,**Location:** Port Moresby, Papua New Guinea**Duration:** Full-time**Position Description:**

The Communications Manager shall develop and implement a communications strategy for TSSP2 that focuses on promoting the program's position as the major partner supporting the strengthening and reform of the sector in PNG, highlighting the significance and importance of various investments and communicating success stories and lessons learnt.

The position shall also work with TSCMIC and sector agencies to support agencies develop and implement their own communication strategies and approaches to media engagement, particularly in relation to TSSP2 funded activities. Major target constituencies are to be identified, but shall include both GoA and GoPNG senior decision makers, industry groups in PNG and Australia, communities impacted by TSSP projects and the media and general public in PNG and Australia.

Specific Duties

The Communications Manager shall:

- develop and implement a TSSP2 communications strategy to collate and disseminate using multiple media forms appropriate data and information between and across key partners and stakeholders. The overarching objective the strategy will be to promote the program to key stakeholders and establish the program's position within the sector;
- assess TSSP2 activity to support communication initiatives and use this information, in conjunction with the GoPNG and DFAT, to promote TSSP2 to target audiences;
- oversight the production of all communication materials, including print, photo, and DVD;
- oversight TSSP media events, to ensure appropriate arrangements are in place to provide media information;
- prepare background material for GoPNG initiated media releases on TSSP2 activities;
- when requested, draft media material for DFAT relating to TSSP2 activities;
- in conjunction with the broader team promote GoPNG ownership of TSSP2;
- establish agreed and realistic targets for communication outcomes within the overall context of TSSP2;
- ensuring communication strategies and opportunities enhance gender equity outcomes within the overall context of TSSP2;
- develop and report on "success stories" providing information about TSSP2 activities and outcomes;

- manage and implement regular seminars for GoPNG officials and advisers as well as a program newsletter with wide distribution outlining common themes and transport sector developments;
- management of the TSSP website, including day-to-day maintenance of content ensuring information on the site is up to date and relevant. Also provide oversight of virtual forums and online Communities of practice;
- initiate work with partner agencies to support planning for their communications strategies within PNG; and
- ensure all TSSP prepared background material for media releases by DFAT or GoPNG meets specified requirements and is appropriately cleared by DFAT and GoPNG delegates, in accordance with protocols.

Core Competencies

- Tertiary qualifications in Public Relations, Communications or Marketing, journalism or a related discipline (essential).
- Post-graduate qualifications (desirable).
- Demonstrated experience and understanding of communication strategies and systems appropriate to the PNG context.
- A thorough understanding and/or experience of the communication needs of partner agencies in the transport sector context and PNG.
- Key personal attributes include:
 - Collaborative and partnership style of working;
 - Strong communication and liaison skills;
 - Flexibility and responsiveness;
 - Good management and coordination skills;
 - Team building and coordination; and
 - High level problem solving skills.

PROGRAM FINANCE MANAGER**ARF Classification:** C3**Reports to:** Team Leader**Location:** Port Moresby, Papua New Guinea**Duration:** Full-time**Position Description:**

The Program Finance Manager shall be responsible for providing overall advice, supervision and leadership to establish and maintain financial management, accounting and reporting systems for TSSP2.

The Program Finance Manager shall work closely with the Program Director, Team Leader, DFAT and other key stakeholders regarding the financial reporting, audit and risk management requirements of TSSP2.

Specific Duties

The Program Finance Manager shall:

- facilitate effective and efficient working relationships with TSSP2 stakeholders to ensure that roles, responsibilities and outputs within the finance and audit functions are understood and achieved;
- contribute to a positive, supportive and team focused work environment within the Contractor's Management Team;
- ensure all TSSP2 finance staff are up-to-date with knowledge and skills in order to perform their roles effectively and efficiently.
- manage the Contractor's contractual obligations to DFAT to ensure that all TSSP2 activities and financing activities conform with the requirements of the Contractor's Contract;
- maintain financial oversight of sector agencies and any other bodies funded by the TSSP2 to ensure effective use of TSSP2 resources;
- ensure prompt reporting and management of fraud cases in accordance with the DFAT Fraud Policy and through the Exception Reporting protocols;
- facilitate the implementation of appropriate programs for internal and external audit of funded partners, including preparation of terms of reference and spot-check programs and schedules;
- participate and cooperate in any reviews or audits arranged by DFAT in relation the TSSP2;
- communicate audit findings, procedures and compliance issues clearly to TSSP2 partners, stakeholders and DFAT as requested, and address all issues in a timely manner;
- take appropriate remedial action including capacity building to rectify any financial management non-compliance and/or deficiencies;
- contribute to the development and implementation of the financial management aspects of the TSSP2 Risk Management Strategy;

- contribute to financial systems assessments to determine appropriate fund flow mechanisms for individual partner agencies and provide recommendations on appropriate capacity building assistance;
- on request from TSCMIC and upon approval by the Program Director, provide financial management advice or assistance to an agency. This will not be a core function of the position with the sector advisers expected to undertake this role;
- manage and update the Financial Procedures Manual to the satisfaction of the Team Leader, Program Director and DFAT;
- develop with TSCMIC and manage budgets for each Annual Implementation Plan, Program Office establishment and operations for review and approval by the Team Leader and the Program Director; and
- contribute to timely and accurate TSSP2 reporting.

Core Competencies

- Relevant tertiary qualifications in accounting and auditing.
- Relevant experience in financial, audit and risk management.
- Understanding of the PNG Public Finance Management Act and other relevant PNG and Australian legislation or the ability to quickly acquire that knowledge.
- Understanding of the links between financial audit and broader performance audit and value for money.
- Experience in the development and implementation of financial systems in complex and high risk environments.
- Key personal attributes to include:
 - Collaborative and partnership style of working;
 - Strong communication skills;
 - Flexibility and responsiveness;
 - Team-based approaches;
 - High level problem solving skills; and
 - Highest level of integrity and ethics.

ANNEX B: COMPONENT MANAGERS – TERMS OF REFERENCE**COMPONENT 1 MANAGER
(Priority Land Transport Assets Maintained)****ARF Classification:** C4**Reports to:** Program Director and Team Leader**Location:** Port Moresby, Papua New Guinea**Duration:** Full Time**Position Description**

The Component 1 Manager shall oversee the delivery of Component 1 working under the high level strategic direction of the Program Director.

The Component 1 Manager position shall be administered by the Contractor through the Team Leader.

The Component 1 Manager shall be responsible for ensuring the effective delivery and coordination of program inputs under Component 1, providing strategic and analytical advice to improve the effectiveness of the delivery and overseeing the assessment and reporting of progress against component objectives.

Specific Duties

The Component 1 Manager shall:

- provide the day-to-day oversight of the implementation of Component 1, supported as necessary by additional Contractor resources;
- counterpart the Secretary of Works and the Senior Executive of the Department of Works (DoW);
- directly support DoW in the oversight and management of the PMSC contract and ensure effective working relationships between the PMSC and the Contractor;
- maintain operational contact and oversight of the sub-contracted road maintenance in Bougainville to ensure delivery of the Bougainville program of works;
- maintain operational communications with the NRA and ABG on the implementation of road maintenance activities and develop counterpart relationships as support increases over the life TSSP2;
- provide strategic advice to, facilitate the effective functioning of, and oversee responses to the recommendations of the Quarterly Road Maintenance Committee and the TSSP Quarterly Review;
- provide analysis and advice on the recommendations of the independent Technical Audit Consultancy and support their implementation;
- ensure the Program Director and DFAT is kept well informed of TSSP2's environmental context, progress and risks under Component 1 so that program and strategic risks can be managed proactively;

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- provide timely and quality analytical advice to the Program Director, DFAT and GoPNG on developments in the land transport sector and asset management practices including technical and procurement issues;
- provide support to the Program Director with adviser advice on technical, contracting and procurements aspects of TSSP2 land transport activities;
- provide effective strategic and operational direction to the PMSC and the Contractor on the implementation of TSSP2 to achieve the delivery of results, including capacity development strategies under Component 1;
- assist in the development of policy and provide strategic analysis and assessment of budget and policy proposals and implementation;
- assist in the development of Annual Implementation Plans and improved planning processes towards whole of life asset management, effective economic prioritization and medium term expenditure and planning frameworks;
- ensure that relevant information on results (sector, program & activity) is gathered and used to support program decision-making, and program reporting to TSCMIC and DFAT and that it is balanced, transparent, and easy to understand;
- contribute to and guide TSSP2 research, analysis and impact assessment relevant to the land transport sector;
- maintain extensive and high quality relationships at senior levels of GoPNG including with secretaries and chief executive officers and provide support to assist them to carry out their functions;
- ensure program support is stakeholder-centred, policies and activities are demand driven, and partnerships are encouraged and effectively managed;
- identify and implement opportunities for harmonisation with other donors active in the land transport sector notably the Asian Development Bank, World Bank and JICA; and
- reinforce the importance of high standards of behaviour and ethics in the delivery of results to PNG stakeholders (e.g. consultative, high integrity, respectful, professional, ethical and people values).

Core Competencies

- University degree in a relevant area, such as civil engineering or transport management/economics and extensive experience in planning, managing and/or advising on infrastructure maintenance, with a focus on civil engineering.
- Demonstrated experience in civil engineering service delivery and management of programs/projects.
- Experience in strategic planning and policy development for the road transport sector.
- Demonstrated skill/experience in supervising and guiding the activities of work teams.

- Demonstrated commitment to and understanding of governance, institutional strengthening, change management and capacity building principles, strategies and techniques.
- Commitment and demonstrated capacity to undertake activities in a participative, culturally sensitive and consultative manner, ensuring counterparts actively contribute and develop understanding and ownership.
- High level interpersonal and communication skills and a demonstrated ability to communicate and negotiate effectively with a diverse range of groups.
- Demonstrated capacity to work independently as well as contribute positively in a team environment.
- Competence with a range of computer software programs, including Word, Excel and PowerPoint.
- High standards of integrity, professionalism and accountability and the ability to uphold the credibility of, and contribute to the goals of TSSP.

**COMPONENT 3 MANAGER
(Performance and Accountability)**

ARF Classification: C3
Reports to: Program Director and Team Leader
Location: Port Moresby, Papua New Guinea
Duration: Full Time

Position Description

The Component 3 Manager shall oversee the delivery of Component 3 activities working under the high level strategic direction of the Program Director.

The Component 3 Manager position shall be administered by the Contractor through the Team Leader.

The Component 3 Manager shall be responsible for ensuring the effective delivery and coordination of program inputs under Component 3, providing strategic and analytical advice to improve the effectiveness of the delivery and overseeing the assessment and reporting of progress against component objectives.

Specific Duties

The Component 3 Manager shall:

- counterpart the TSCMIC member departmental heads and senior officers involved in policy development, monitoring and reporting;
- contribute to the provision of timely strategic thinking and quality analytical advice to TSCMIC and DFAT on achieving the Partnership for Development Transport Schedule's outcomes and other topics as requested;
- contribute to ensuring DFAT is kept well informed of TSSP2's environmental context, progress and risks so that program and strategic risks can be managed proactively;
- participate in DFAT's engagement under the Partnership for Development particularly in the preparation of analysis and research data;
- provide support as directed by the Program Director to the TSCMIC, its members, DNPM and DFAT for TSSP2 to achieve the delivery of outcomes under Component 3;
- assist in the development of policy and Annual Implementation Plans and provide strategic analysis and assessment of budget and policy proposals and implementation;
- working with DNPM through the Program Director, ensure that relevant information on results (sector, program & activity) is gathered and used to support program decision-making, and program reporting to TSCMIC and DFAT, and that it is balanced, transparent, and easy to understand;
- contribute to and guide TSSP2 research, analysis and impact assessment;

- monitor the implementation of the National Transport Strategy, and through the Program Director, provide TSCMIC with timely and strategic advice on its implementation;
- maintain extensive and high quality relationships at senior levels of GoPNG including with secretaries and chief executive officers and provide support to assist them to carry out their functions;
- provide capacity development support to the TSCMIC and mentoring of its members as directed by the Program Director;
- ensure program support is stakeholder-centred, policies and activities are demand driven, and partnerships are encouraged and effectively managed;
- assist the Program Director and TSCMIC to identify and implement opportunities for harmonisation with other donors notably the Asian Development Bank, World Bank and JICA;
- reinforce the importance of high standards of behaviour and ethics in the delivery of results to PNG stakeholders (e.g.: consultative, high integrity, respectful, professional, ethical and people values); and
- provide facilitation and secretariat support to the TSCMIC Development Effectiveness Sub-Committee.

Core Competencies

- Demonstrated experience in implementing and managing performance and accountability approaches and their application in the PNG context.
- High level policy and analytical skills.
- High level interpersonal and communication skills, including the ability to convey concepts clearly and concisely.
- Demonstrated experience in change management, capacity development and organisational development.
- Demonstrated work experience in international development and a deep understanding and practical experience in improving aid effectiveness.
- Strong public and private sector networks in particular in the transport infrastructure sector.

ANNEX C:
CORE SPECIALIST TEAM – TERMS OF REFERENCE

Generic Conditions

The following conditions must apply to all terms of reference for members of the Core Specialist Team and agency-based advisers.

All positions shall be administered by the Contractor through the Team Leader. The Core Specialist team and Advisers should work closely with the TSCMIC, relevant agency-heads and senior managers within agencies and in accordance with more detailed requirements agreed in individual Core Specialist Annual Work Plans and/or specific Agency Support Arrangement (ASAs). Core Specialists shall report to the Program Director.

Specific duties:

The Core Specialist Team shall:

Policy Advice

- contribute in their field of expertise quality strategic thinking and analytical advice on TSSP2's approach, methods and outcomes, and other topics as requested;
- ensure DFAT and TSCMIC through the Program Director and Team Leader are kept well informed of TSSP's environmental context, progress and risks so that program and strategic risks can be managed proactively;

Strategic Direction and Impact

- provide support to DFAT and TSCMIC for TSSP2 to achieve the delivery of outcomes across the program's strategic components;
- assist in the development of sector and agency policy and Annual Implementation Plans, and provide strategic analysis and assessment of budget and policy proposals and implementation;
- ensure that relevant information on results (sector, program and activity) is gathered and used to support program decision-making, program reporting to TSCMIC and DFAT and, that it is balanced, transparent, and easy to understand;

Capacity Development

- use the most effective capacity building approaches to ensure that institutional, organisational and individual capacity improvements are identifiable, measurable and sustainable;
- strengthen sector capacity to design, implement and manage practical and sustainable monitoring, evaluation and reporting systems to:
 - measure progress against sector goals;
 - meet the needs of central agency and other stakeholders; and
 - enable greater assessment of local level impact for men, women, and children.

- support and contribute to the diagnostic assessment and ASA process to design effective interventions under TSSP2 to deliver its outcomes;
- encourage and support the sector's efforts to improve coordination, coherence and partnerships among sector stakeholders, and to build mutual understanding and engagement with relevant systems and processes required by central agencies, at sub-national levels of government and within communities;
- support sector coordination mechanisms, in particular TSCMIC and its sub-committees, to:
 - undertake all aspects of their sector coordination roles, including planning and priority setting, monitoring, evaluation and reporting, information management and effective communication both within the sector and externally; and
 - address service delivery challenges and overarching policy issues such as community and subnational engagement, gender equality, HIV mainstreaming, environment and disability.
- support sector managers and staff to participate effectively in sector coordination mechanisms and other forums, and to build relationships with other stakeholders, including nongovernment and community partners;
- work proactively, in a collaborative manner with other GoA-funded programs, as well as other donors, to enable cross-program learning and coordination, and to ensure effective harmonisation of assistance to the transport and infrastructure sector;
- integrate principles of gender equality and gender mainstreaming into capacity building approaches recognising the particular role of men in driving change toward greater gender equality.
- integrate principles of HIV mainstreaming into capacity building approaches; and operate in accordance with the principles of aid effectiveness set out in the TSSP2 design, including using and supporting PNG systems, maintaining constructive working relationships within the agencies, across the sector and with external stakeholders (including understanding and respecting the sector's internal governance protocols), maintaining constructive relationships with all other TSSP2 personnel and supporting overall GoA-GoPNG joint management of TSSP2;

Behaviour and practice

- maintain extensive and high quality relationships with secretaries and chief executive officers and senior counterparts including providing support to carry out their functions; and
- reinforce the importance of high standards of behavior and ethics in the delivery of results to PNG stakeholders (e.g.: consultative, high integrity, respectful, professional, and ethical and people values);

Skills, knowledge and experience

- Demonstrated understanding of the role and functions of developing country transport infrastructure systems and agencies.
- Demonstrated understanding of a range of capacity building approaches and their applicability to different contexts and needs.

- Demonstrated understanding and commitment to principles of gender equality and gender mainstreaming, including how these can be integrated into capacity building approaches.
- Substantial knowledge, skills and experience in the Adviser's designated area of expertise and an understanding of its importance in effecting sustainable organisational change.
- Significant experience in a dynamic public sector or other major organisational environment.
- High level policy and analytical skills.
- High level interpersonal and communication skills, including the ability to convey concepts clearly and concisely.
- Demonstrated ability to develop constructive and supportive working relationships with colleagues and others.
- A demonstrated ability to produce readable, timely, relevant, accurate and concise reports.
- Experience in working successfully in a cross-cultural, multi-lingual environment would be an advantage but is not essential.
- An understanding of HIV mainstreaming principles and how these can be integrated into capacity building approaches would be an advantage but is not essential.

SECTOR PERFORMANCE SPECIALIST

ARF Classification: C3
Reports to: Program Director and Team Leader
Location: Port Moresby, Papua New Guinea
Duration: Full Time

Position Description

The Sector Performance Specialist shall be responsible for supporting the sector to report progress against the expectations of the *National Transport Strategy (NTS)* (and *Medium Term Transport Plan (MTTP)*), the *Medium Term Development Plan 2011-15* (MTDP) and the transport aspects of Bougainville's strategic development plan. The Adviser will work closely with the Agency M&E and Reporting Specialist, and the Contractor's M&E Manager.

Specific Duties

The Sector Performance Specialist shall:

- develop with TSCMIC, sector agencies and DNPM the monitoring and evaluation requirements (M&E) for *National Transport Strategy (and Medium Term Transport Plan)*, the *Medium Term Development Plan 2011-15* and the transport aspects of Bougainville's strategic development plan;
- supporting the sector maintain appropriate M&E arrangements through a dynamic process that focuses on performance information;
- the position will have a substantial hands-on role supporting the collection and analysis of relevant and timely data and information and completing the sector's annual report;
- the position also has a significant capacity development role in:
 - developing an understanding and acceptance in the sector of the purpose and need for sector performance reporting;
 - preparing simple and appropriate templates, systems and other processes to support the collection and transmission of performance reports under the NTS;
 - sharing with agency partners innovation in the field of M&E and providing advice on improvements to data collection particularly the reporting of effectiveness and impact (to be implemented with assistance from the Agency M&E and Reporting Specialist); and
 - ensuring cross-cutting issues are reported in the sector reports.
- supporting the Independent Review Group in its work;
- undertake capacity development activities with advisers and other contractors to ensure that all those who make contributions to TSSP have a clear understanding of the NTS and GoPNG's and GoA's desired outcomes so that they can assist the agencies to report accurately on their progress and achievements;

- provide advice to the Program Director, Team Leader, TSSP2 team members, Core Specialist Team and advisers on incorporating monitoring, evaluation, reporting and improvement principles into their work practice;
- work with the M&E Manager to supervise research and analysis when required under the Annual Implementation Plan;
- contribute to diagnostic and ASA processes to identify agency capacity needs and process improvement expertise; and
- support and facilitate, where appropriate, HIV mainstreaming, gender development and other cross-cutting issues.

Specific Skill Requirements:

- Demonstrated experience in implementing and managing M&E systems comparable to that required in TSSP.
- Demonstrated experience in change management, capacity development and organisational development.
- Demonstrated experience in international development and a deep understanding and practical experience in improving aid effectiveness.
- Above average skills in the use of electronic media, presentation and publication software.

AGENCY MONITORING & EVALUATION (M&E) AND REPORTING SPECIALIST

ARF Classification: C3

Reports to: Program Director and Team Leader

Location: Port Moresby, Papua New Guinea

Duration: Full Time

Position Description:

The Agency M&E and Reporting Specialist shall:

- strengthen understanding, processes and systems within agencies on collecting business and corporate data and information for use in business decision making and reporting on performance;
- work with agencies to collect data and information under the National Transport Strategy and other high level planning documents;
- take a hands-on approach to mentor agencies to deliver annual and periodic performance reports as required by GoPNG public service procedures;

Specific Duties

- work with agency management to develop an understanding of the importance of collecting and using available business information, including how/why it is generated, how it flows and who uses it. Support management to gradually develop an 'information demand' culture;
- assist agency management develop their business information and reporting requirements as business processes develop and change;
- work with agencies to collect, analyse and report key business and monitoring information for their Annual Reports and other legislated requirements;
- work with agencies to enable them to develop business information systems which allow them to report regularly against their Corporate and Annual Plans to their boards and/or ministers;
- work with the Sector Performance Specialist to assist agencies to report against the NTS and agency specific medium term frameworks;
- assist agencies define requirements of the types of data and reports needed by management;
- assist with the coordination, generation, collation, and distribution of data by the agencies to management; and
- provide training on analysis and interpretation of business information and data.

Specific Skill Requirements

- Tertiary qualifications in a related field, e.g., social development, information management, business administration, M&E disciplines.

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- Demonstrated experience in information management, performance reporting and the assessment of organisational performance.
- Demonstrated experience of mentoring senior management and/or executive staff in the areas of business information and reporting.
- Relevant experience in a developing country context and demonstrated capacity to respect and appreciate cross cultural communication and experience and knowledge in adult education and participatory training.
- Work experience and understanding of the principles of monitoring and evaluation.

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SECTOR ANALYST AND POLICY SPECIALIST

ARF Classification: C3

Reports to: Program Director and Team Leader

Location: Port Moresby, Papua New Guinea

Duration: Full Time

Position Description

The Sector Analyst and Policy Specialist shall:

- provide assistance to the sector to strengthen skills in policy development, sustainable planning, strategic management and organisational development; and
- work with the Public Finance Management Specialist to assist the central and sector agencies by providing analysis and quality practical advice that improves the understanding of public expenditure management, especially in the areas of the strategic prioritisation of available financial resources and the cost-effective implementation of projects and programs;

Specific Duties:

- provide advice and support to the sector to devise and implement sustainable planning and management approaches;
- provide strategic, high level advice to the senior executive on a range of issues including infrastructure planning issues, the budget process and corporate management;
- advise and assist senior executive teams devise and implement plans for the future development and improvement of the infrastructure function within a broader policy and planning setting;
- advise and assist with the development and implementation of corporate plans, Annual Implementation Plans and other plans/strategies; and
- work with counterparts to enhance communications and improve linkages with key stakeholders, between central agencies, with transport sector line agencies and into the Provinces.

Specific Skills Requirements

- Tertiary qualifications in Management, Commerce, Business, Public Administration or disciplines related to the effective development and implementation of public policy.
- Demonstrated experience with ten years work experience in strategic/corporate planning, including the implementation of major policy initiatives.
- Significant management experience in a public sector organisation at a level where policy and budget decisions intersect.
- Understanding of monitoring and evaluation processes and their application.

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- Demonstrated commitment to and understanding of governance, institutional strengthening, change management and capacity building principles, strategies and techniques.

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Schedule 1

PROCUREMENT SPECIALIST

ARF Classification: C4

Reports to: Program Director and Team Leader

Location: Port Moresby, Papua New Guinea

Duration: Full Time

Position Description

The Procurement Specialist shall work across the sector to advise on procurement issues, support sector wide and agency specific procurement capacity strengthening activities and verify adherence to good procurement practice.

The Procurement Specialist shall oversee all Contractor procurement oversight responsibilities including additional resources required to ensure verification responsibilities including LoNO processes are adequately delivered.

Specific Duties

The Procurement Specialist shall:

- lead the oversight and verification of TSS2P funded procurement processes in accordance with GoPNG and GoA Procurement Guidelines. In cases where DFAT is required to issue Letters of No Objection (LoNOs) in respect of TSSP2 procurement activities, thoroughly review all relevant elements of the procurement processes carried out for these activities prior to certifying to DFAT that Letters of No Objection may, or should not, be issued;
- review, analyse and comment on procurement activity issues and documents. Develop procurement rules, benchmarks, certification, due process and good practice for TSSP2;
- assist the Program Director, Team Leader, Core Specialist and advisers, counterparts and contractors in developing safeguards and implementing procurement activities. Undertake procurement reviews, propose modifications and evaluate procurement implications;
- assist, support, observe and participate in the procurement process across transport sector agencies and provide ongoing oversight and recommendations on technical specifications, bidding documents, tender notices and invitations, tender evaluation, negotiations and contract finalisation;
- revise and implement the program Procurement Manual and documents and support the updating of transport agencies procurement procedures;
- advise TSSP2 and transport agencies on procurement assessments and develop and implement improvements in procurement reform and capacity. Conduct regular workshops and coordination meetings with TSSP2 advisers and agency counterparts on procurement procedures and provide ongoing guidance;
- develop, implement and supervise the program's procurement monitoring system to ensure verification and adherence to agreed procurement processes; and

- prepare procurement documents and reports and ensure appropriate maintenance of program procurement records.

Core Competencies

- An academic or professional qualification in procurement.
- Extensive experience in public procurement at international level of goods and services, and at a senior level of large (not less than AUD20 million in annual value) and complex public sector funded projects/programs including demonstrated ability to manage and monitor major subcontracted works.
- Demonstrated knowledge and experience in donor-funded procurement of goods and services and familiarity with the critical linkages and relationship between procurement processes and government agency operations and objectives.
- Demonstrated experience in working with partner government and donor procurement systems, ideally the procurement policies, processes and practices of countries relevant to the Government of Papua New Guinea (GoPNG) and Government of Australia (GoA).
- Demonstrated procurement legal and engineering expertise in supervising, certifying and managing the procurement of goods, services and works contracts.
- A demonstrated commitment to and experience in implementing procurement capacity development and leading procurement training within government agencies and ensuring ongoing monitoring.

SOCIAL SAFEGUARDS SPECIALIST

ARF Classification: B3
Reports to: Program Director and Team Leader
Location: Port Moresby, Papua New Guinea
Duration: Full time

Position Description

The Social Safeguards Specialist shall:

- work with TSSP2 personnel and transport sector agencies to assist those agencies develop and/or strengthen strategies and plans and activities aimed at improving social safeguards across the sector, focusing on mainstreaming and improving outcomes in the areas of gender, HIV&AIDS, road safety, disability and environmental policies, as well as other development issues (such as healthy lifestyles) agreed as appropriate;
- assist those agencies and TSSP to develop and/or strengthen plans and strategies aimed at improving social safeguards outputs and recognising the associated benefits to agencies and the broader community;

Specific Duties

- design and assist with the implementation of a Transport Sector Social Safeguards Framework, Strategy and Plan and the support activities indicated in the TSSP Phase 2 Program Design Documentation;
- consider innovations and develop proposals that might assist in advancing comprehensive responses to social safeguards within transport infrastructure agencies individually and in supporting sector-wide approaches;
- work closely with Component One to establish, implement and monitor appropriate social safeguards controls across TSSP funded road projects. This includes operational and implementation support to the Community Agreements arrangements implemented under the Bougainville Roads Program and other areas.
- establish a procedure for spot monitoring of social safeguards compliance. Identify issues to be addressed and propose and follow-up on corrective actions.
- conduct post reviews of social safeguard related projects and submit timely and regular progress reports indicating status of compliance with safeguards framework/policy.
- compile case studies of best practice in social safeguards implementation and outcomes.
- contribute advice and assist with the development and documentation of training material, and provide TSSP2 advisers and other nominated personnel with the skills required to assist agencies introduce and/or adapt and monitor social safeguards strategies and plans.

- assist agencies and relevant counterparts with:
 - the development/strengthening of social safeguards policies, plans, and activities and the linkage of these to broader corporate and strategic plans; and
 - the analysis, monitoring and reporting of social safeguards policies, plans, activities and indicators, including the collection and reporting of sex and age disaggregated data; and
- the linking of common issues and approaches for HIV&AIDS and gender equality, where and as appropriate.

Core Competencies

- Relevant tertiary qualifications (or equivalent experience) in social sciences/humanities, health (HIV&AIDS), teaching/education, or gender studies.
- Demonstrated experience working in the development field in implementing social safeguards related policies and programs at a systems as well as operational level.
- Knowledge of impact assessments and ability to formulate and manage social management plans.
- Experience in gender equity and HIV&AIDS awareness and support.
- Demonstrated experience working collaboratively with a range of government and non-government agencies on HIV&AIDS, gender equality and other cross-cutting development issues.
- Demonstrated understanding of the relationship between cross-cutting development issues, including gender equality, HIV&AIDS, road safety, disability and environmental policies in the transport sector; as well as their importance as stand-alone issues.
- Experience in research and analysis and the preparation of complex reports in plain language and to the standards required by TSSP2.
- Demonstrated ability to facilitate meetings and to present issues related to social safeguards to a range of audiences and target groups.

SCHEDULE 2 – PRICING SCHEDULE

1. TOTAL AMOUNT PAYABLE

- 1.1 The maximum amount payable by DFAT to the Contractor shall not exceed the sum of s 22(1)(a)(ii) plus GST, if any, to a maximum of s 22(1)(a)(ii)
- 1.2 The maximum amount payable is comprised of the following elements:
- (a) Management Fees in accordance with **Clause 2** of this Schedule 2, to include:
 - (i) Regular Monthly Payments in accordance with **Clause 2.3 (a)** of this Schedule 2;
 - (ii) Annual Performance Payments in accordance with **Clause 2.3 (b)** of this Schedule 2; and
 - (b) Performance Incentive Payments in accordance with **Clause 3** of this Schedule 2.
 - (c) Reimbursable Costs in accordance with **Clause 4** of this Schedule 2, to include:
 - (i) Long Term Adviser Costs (engaged under the Adviser Remuneration Framework) in accordance with **Clause 4.6** and **Clause 4.7** of this Schedule 2;
 - (ii) Long Term Personnel (non-Adviser Remuneration Framework) Costs in accordance with **Clause 4.8** and **Clause 4.9** of this Schedule 2.
 - (iii) Short Term Advisers (engaged under the Adviser Remuneration Framework) in accordance with **Clause 4.10** and **4.11** of this Schedule 2;
 - (iv) Advisor Support Costs (can apply to both long/ short term advisers/ personnel) in accordance with **Clause 4.12** and **Clause 4.13** of this Schedule 2;
 - (v) Operational Costs in accordance with **Clause 4.14** of this Schedule 2; and
 - (vi) Program Costs in accordance with **Clause 4.15** of this Schedule 2; and
 - (vii) Bougainville Project Management and Supervision Costs in accordance with **Clause 4.14 - 4.15** of this Schedule 2.
 - (d) Imprest Account Costs in accordance with **Clause 5** of this Schedule 2.
- 1.3 DFAT shall not be liable for any costs or expenditure incurred by the Contractor in excess of the amount specified in **Clause 1.1** of this Schedule 2.
- 1.4 The maximum amount payable for **Years 1 - 3** is summarised in **Table 1** below.

s 22(1)(a)(ii)

2. MANAGEMENT FEE

2.1 The maximum amount payable to the Contractor in Management Fees shall not exceed the sum of s 22(1)(a)(ii) plus GST, if any up to a maximum of s 22(1)(a)(ii) (see Annex 1, Table 3).

2.2 The Management Fee is comprised of the following:

- (a) profits, including commercial margins and mark-up for personnel and project management;
- (b) financial management costs; including the cost of financial charges;
- (c) costs of Contractor administrative and head office staff if any;
- (d) insurance costs as required by this Contract, but exclusive of medical insurance costs for Advisers;
- (e) taxation, as applicable;
- (f) costs of complying with the Contractor's reporting and liaison obligations under this Contract;
- (g) costs associated with all personnel briefings in Australia or in-country;
- (h) costs associated with any subcontracting and procurement of goods and services;
- (i) costs (not otherwise covered under Adviser Support Costs), including domestic and international travel, accommodation, per diems and local transport costs where required for Contractor Head Office personnel;

- (j) any other overheads required to perform the Services in accordance with this Contract;
- (k) all escalators for the management fees for the term of this Contract; and
- (l) any allowance for risks and contingencies.

2.3 DFAT shall pay the Management Fees as follows within thirty (30) days of its receipt of a correctly rendered invoice:

- (a) **Regular Monthly Payments:** At the end of each month, ^{s 22(1)(a)(ii)} of the Management Fee for the relevant period in accordance with **Table 3** of **Annex 1** of this Schedule 2; and
- (b) **Performance Payments:** At the end of each financial period and subject to Contractor's Performance Assessment in accordance with Schedule 11, up to ^{s 22(1)(a)(ii)} of the management fees for the preceding financial year period as per **Table 2** below.

Table 2: Management Fees – Performance Payments
^{s 22(1)(a)(ii)}

3. PERFORMANCE INCENTIVE PAYMENT

- 3.1 DFAT shall pay the Contractor up to a maximum of ^{s 22(1)(a)(ii)} plus GST, if any, up to a maximum of ^{s 22(1)(a)(ii)} for eligible Performance Incentive Payments as follows:
 - (a) At the end of the initial term in 30 November 2017, if the Contractor's Overall Rating at each of the three annual Contractor Performance Assessments (see **Schedule 11**) has been, on average, above 4.5, DFAT shall pay the Contractor a Performance Incentive Payment of ^{s 22(1)(a)(ii)} of the total Management Fees paid to the Contractor during the initial thirty six (36) month term ^{s 22(1)(a)(ii)} ; and
 - (b) At the end of the option period in 30 November 2019 (if the full option is exercised), if the Contractor's Overall Rating at each of the two annual Contractor Performance Assessments (see **Schedule 11**) conducted for the

option period has been, on average, above 4.5, DFAT shall pay the Contractor a Performance Incentive Payment of ^{s 22(1)(a)(ii)} of the total Management Fees paid to the Contractor during the two (2) year option period up to a maximum of s 22(1)(a)(ii)

4. REIMBURSABLE COSTS

- 4.1 For each reimbursable cost listed below, DFAT shall pay the Contractor monthly on a reimbursable basis in arrears, and subject to a correctly rendered invoice.
- 4.2 The Contractor must retain all receipts and all relevant documents such as time sheets for audit purposes.
- 4.3 Specified upper limits for each reimbursable component shall not be exceeded without prior written approval from DFAT.
- 4.4 Category Limits: When expenditure reaches 80% of the reimbursable category limits, the Contractor must advise DFAT of the remaining commitments and whether the upper limits are likely to be exceeded, and, if so, provide justification.
- 4.5 Funds may be moved within reimbursable category limits with written approval from DFAT, provided that the upper limit of reimbursable costs is not exceeded.

Long Term Adviser Costs (engaged under the Adviser Remuneration Framework)

- 4.6 DFAT shall reimburse the Contractor at actual cost up to a maximum of ^{s 22(1)(a)(ii)} plus GST, if any, for Long-Term Adviser Costs up to a maximum of ^{s 22(1)(a)(ii)} in accordance with Table 4 of Annex 1 of this Schedule 2, for the following items:

- (a) the Monthly Remuneration Rate in accordance with the Job Level and Professional Discipline Category specified in the position Terms of Reference and calculated in accordance with the Adviser Remuneration Framework. The Monthly Remuneration Rate shall be:
^{s 22(1)(a)(ii)}

- 4.7 Leave accrued during the Contract for Long Term Advisers shall be deemed to be taken in the 12 month period it falls due, and cannot be accumulated or paid out.

Long Term Personnel (non-Adviser Remuneration Framework) Costs

4.8 DFAT shall reimburse the Contractor at actual cost up to a maximum of s 22(1)(a)(ii) plus GST, if any, for Long Term Locally Engaged Personnel up to a maximum of s 22(1)(a)(ii) in accordance with Table 5 of Annex 1 of this Schedule 2, for the following items:

s 22(1)(a)(ii)

4.9 Leave accrued during the assignment for Long Term Locally Engaged Personnel shall be deemed to be taken in the 12 month period it falls due, and cannot be accumulated or paid out.

Short Term Advisers (engaged under the Adviser Remuneration Framework)

4.10 DFAT shall reimburse the Contractor at actual cost up to a maximum of s 22(1)(a)(ii) plus GST, if any, for Short Term Advisers, up to a maximum of s 22(1)(a)(ii) in accordance with Table 6 of Annex 1 of this Schedule 2, for the following items:

(a) the Daily Remuneration Rate in accordance with the Job Level and Professional Discipline Category specified in the position Terms of Reference and calculated in accordance with the Adviser Remuneration Framework. The Daily Remuneration Rate shall be:

s 22(1)(a)(ii)

4.11 Utilisation of these inputs shall be periodic, when and if needs arise, subject in each case to specific approval by DFAT in writing on a case by case basis. The Contractor shall outline the Short Term Adviser allocation in each Annual Implementation Plan and its utilisation must be approved by DFAT.

Advisor Support Costs (can apply to both long/short term advisers/personnel)

- 4.12 DFAT shall reimburse the Contractor at actual cost up to a maximum of ^{s 22(1)(a)(ii)} plus GST, if any, for Adviser Support Costs, up to a maximum of ^{s 22(1)(a)(ii)} in accordance with **Table 7** of Annex 1 of this Schedule 2, for the following items:
^{s 22(1)(a)(ii)}

- 4.13 If requested by DFAT, for payment verification purposes, the Contractor shall provide DFAT with appropriate documentation to support all Adviser Support Costs claimed (excluding travelling allowance).

Operational Costs

- 4.14 DFAT shall reimburse the Contractor up to a maximum of ^{s 22(1)(a)(ii)} plus GST, if any, for Operational Costs up to a maximum of ^{s 22(1)(a)(ii)} in accordance with **Table 8** of Annex 1 of this Schedule 2, for the following items:

- (a) **Set-Up Costs** shall include:
 - (i) capital expenditure: to include upgrade of property/office outfitting;
 - (ii) procurement and replacement of equipment/furniture - replacement will include capital expenditure procurement and replacement of equipment, furniture, office fixtures and fittings required for operation; and
 - (iii) procurement and replacement of Program related Assets and Project Vehicles.
- (b) **Office Costs** shall include day to day Port Moresby and Provincial running costs, but not limited to:
 - (i) lease/office rental;
 - (ii) office stationery supplies;
 - (iii) recurrent office costs (phone, communications, fact, IT/internet, printers, papers, photocopier and software, cleaning);
 - (iv) advertising and Recruitment of personnel as required;
 - (v) utilities;
 - (vi) Office cleaning services;
 - (vii) in-country office insurance; and
 - (viii) Project Vehicle operating costs for example, petrol, repairs and maintenance, as required by the Program; and
- (c) **Training, Workshops and Meetings** in accordance with Program requirements.
- (d) The Contractor may vary the figures in the line items by up to 10% with the prior written (email) approval of the DFAT infrastructure team

Program Costs

4.15 DFAT shall reimburse the Contractor up to a maximum of **s 22(1)(a)(ii)** plus GST, if any, for Program Costs up to a maximum of **s 22(1)(a)(ii)** in accordance with **Table 9** of Annex 1 of this Schedule 2, for the following items:

- (a) Component 1: Costs related to the delivery and implementation of Component 1, as agreed with DFAT (includes managed projects in Manus and for the Ramu Highway. Does not include funding for DoW managed projects);
- (b) Component 1 Bougainville: Costs related to the delivery and implementation of Component 1 in Bougainville, as agreed with DFAT;
- (c) Component 2:
 - (i) Technical assessment costs of appropriate key safety and security equipment and technologies, as specified at **Clause 10.3 (c)** of Schedule 1;
 - (ii) Systems and process upgrade costs for safety and security purposes, as specified at **Clause 10.3 (d)** of Schedule 1; and

- (iii) Costs to fund agencies (if required) supported under Component 2, as specified at **Clause 10.3 (e)** of Schedule 1.
- (d) Component 3:
 - (i) Impact study costs, as specified at **Clause 10.4 (d)** of Schedule 1;
 - (ii) Data collection in agencies and by the sector as a whole, as specified at **Clause 10.4 (d)** of Schedule 1;
 - (iii) Research and Analysis costs, as specified at **Clause 10.4 (i)** of Schedule 1;
 - (iv) Publication (written and electronic) of research findings costs and production of information and advocacy materials, as specified at **Clause 10.4 (l)** of Schedule 1; and
 - (v) Costs for provision of TSCMIC meeting venue and facilities
- (e) Independent Technical Audit Contractor:
 - (i) logistical support for Technical Audit missions, as specified at **Clause 10.8 (b)** of Schedule 1;
- (f) Independent Review Group
 - (i) logistical support of Independent Review missions, as specified at **Clause 10.7 (b)** of Schedule 1;
- (g) Communication Services:
 - (i) establishment costs of an effective communications strategy for the sector, as specified at **Clause 10.29 (a)** of Schedule 1;
- (h) TSSP2 promotional events, seminars and activities, as agreed with DFAT;
- (i) Personnel training/professional development costs, as agreed with DFAT;
- (j) Costs associated with delivery, implementation and review of Agency Support Arrangements (see **Clause 10.5** of **Schedule 1**); and
- (k) Other costs associated with delivery of activities as agreed with DFAT in writing prior to the expense.

Assets

4.16 The Contractor must maintain a register of Assets in accordance with **Clause 59.4** of **Part 6 - Standard Contract Conditions**.

5. IMPREST ACCOUNT

- 5.1 The maximum amount payable for Imprest Account payments by DFAT to the Contractor shall not exceed the sum of **s 22(1)(a)(ii)**
- 5.2 The Contractor shall take over management the former TSSP1 Imprest Accounts as per **Clause 6.1** of Schedule 1. The Contractor is to manage the Imprest Account in accordance with **Clause 77** of Part B for the primary purpose of:
 - (a) finalising any outstanding GST payment relates issues from the former TSSP1 Imprst Account; and
 - (b) funding the Ramuu Highway Scoping and Design Study.

- 5.3 Imprest Account Funds shall be paid, expended, managed and accounted for in accordance with **Clause 77** of Part B.
- 5.4 The Contractor will not be able to use the Account to fund any function which falls within this Statement of Requirements. Any resources required to deliver the Services is considered by DFAT to be covered in the existing Management or Reimbursable Fees.

6. CLAIMS FOR PAYMENT

- 6.1 The Contractor's tax invoice must be submitted when due pursuant to this Schedule 2 in a form identifiable with the Services.
- 6.2 All tax invoices must include a certification by a Company Director of the Contractor, or their delegate:
- (a) that the invoice has been correctly calculated; and
 - (b) that the Services included in it have been performed in accordance with this Contract.
- 6.3 All claims for payment must be **made out to:**
- Chief Finance Officer
 - Department of Foreign Affairs and Trade
 - RG Casey Building
 - John McEwen Crescent
 - Barton ACT 0221
 - AUSTRALIA
- 6.4 Tax invoices should be sent to the above address. Alternatively, DFAT will accept **electronic tax invoices**. These can be sent to **s 22(1)(a)(ii)** @DFAT.gov.au with a copy to DFAT Activity Manager.
- 6.5 Invalid invoices will be returned to Contractors. Information on what constitutes a valid tax invoice can be found at <http://www.ato.gov.au/businesses/content.asp?doc=/content/50913.ht>

s 22(1)(a)(ii)

s 22(1)(a)(ii)

s 22(1)(a)(ii)

s 22(1)(a)(ii)

s 22(1)(a)(ii)

s 22(1)(a)(ii)

Contract 68980

Schedule 3

SCHEDULE 3 - Deed of Confidentiality

THIS DEED POLL is made on the _____ day of []

in favour of **COMMONWEALTH OF AUSTRALIA** represented by the Department of Foreign Affairs and Trade ("DFAT").

BY [Insert name and address of Individual who will have access to Confidential Information] (the "Individual").

RECITALS

- A. DFAT and **SMEC International Pty. Ltd.** (the "Contractor") have entered into a Contract for the purpose of a project in Papua New Guinea.
- B. The Recipient has been engaged by the Contractor to work on the project.
- C. The Recipient Contractor, in carrying out that work, be given access to Confidential Information.
- D. DFAT requires the Recipient to enter into this Deed in relation to use of Confidential Information.

THE RECIPIENT DECLARES AS FOLLOWS:

1 INTERPRETATION

1.1 In this Deed, unless the contrary intention appears:

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

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

"**Personal Information**" has the same meaning as in the *Privacy Act 1988*.

2 CONFIDENTIAL INFORMATION

2.1 The Individual acknowledges and agrees that:

- (a) the Confidential Information is confidential and that any Confidential Information disclosed to the Individual is disclosed to the Individual only pursuant to the terms of this undertaking;

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

3 RESTRICTIONS ON USE

3.1 The Recipient must:

- (a) keep the Confidential Information, and all documents containing, or referring to, any Confidential Information, under effective control of the Individual;
- (d) 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;
- (e) 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;
- (b) 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
- (c) if required by the Commonwealth:
 - (i) permit the Commonwealth reasonable access to the Recipient's premises and information management systems to ensure or check compliance with this undertaking; and
 - (ii) provide to the Commonwealth a statutory declaration of an officer of the Recipient stating that **Clause 3.1(e)** has been complied with.

4 PERSONAL INFORMATION

- 4.1 The Individual 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 Individual were an "Agency" as defined by that Act.

5 SURVIVAL OF OBLIGATIONS

5.1 The obligations in this Deed are perpetual.

EXECUTED as a deed poll.

SIGNED, by the Recipient in the presence)
of:)
Signature of

.....
Signature of witness
Name of witness
(Print)

SCHEDULE 4 – Confidential Information

Confidential Information identified by DFAT

Description	Period of Confidentiality
Not Applicable	

Confidential Information identified by the Contractor

Description	Period of Confidentiality
Not Applicable	

SCHEDULE 5 - Deed of Novation and Substitution

This **DEED OF NOVATION AND SUBSTITUTION** made the _____ day of _____

BETWEEN:

COMMONWEALTH OF AUSTRALIA represented by the Department of Foreign Affairs and Trade (“DFAT”)

AND:

[_____ ABN _____ of _____] (the “Subcontractor”) of the second part;

AND:

Insert Contractor's Name and ACN] of [insert **Contractor's Address** (the “Contractor”) of the third part.

WHEREAS:

- A. DFAT is concerned to ensure that the Services under the Contract are properly delivered.
- B. The Subcontractor is a subcontractor to the Contractor for the Services.
- C. The Subcontractor and Contractor have agreed with DFAT to novate the Subcontract to DFAT in the event that DFAT exercises its right under **Clause 38** (Subcontracting) and **37**(Specified Personnel) of the Contract.
- D. The Subcontractor agrees that DFAT may novate the Subcontract to another Contractor at its sole and absolute discretion in the event that DFAT has exercised its right under **Clause 38** and **Clause 37** of the Contract.

NOW THIS DEED WITNESSES AS FOLLOWS:

1 DEFINITIONS

“**Business Day**” means a day on which trading banks are open for business in Canberra;

“**Commencement Date**” has the same meaning as in the Contract;

“**Contract**” means the Contract for the provision of Services between DFAT and the Contractor dated on or about [_____];

“**Deed**” means this Deed of Novation;

“**Services**” means the services to be provided by the Contractor to DFAT under the Contract;

“**Party**” means DFAT, the Subcontractor or the Contractor;

“**Subcontract**” means the contract between the Contractor and the Subcontractor for the provision of the Subcontractor Services; and

“**Subcontractor Services**” means the services that the Subcontractor is obliged to provide to the Contractor under the Subcontract.

2 APPLICATION OF DEED DEFINITIONS

2.1 The Contractor and the Subcontractor agree that:

- (a) this Deed is entered into for the benefit of DFAT; and
- (b) DFAT may exercise the rights granted to it under this Deed.

2.2 This Deed commences on the Commencement Date of the Subcontract.

3 NOVATION

3.1 DFAT may issue a notice of substitution to the Subcontractor if DFAT is entitled to exercise its rights under Clause 38 (Subcontracting) and Clause 37 (Specified Personnel) of the Contract

3.2 The Parties agree that on and from the date of issue of a notice of substitution:

- (a) DFAT is substituted for the Contractor under the Subcontract in respect of the Subcontractor Services as if DFAT was originally the Party to the Subcontract instead of the Contractor, and all references in the Subcontract to the Contractor are to be read and construed as if they were references to DFAT;
- (b) DFAT is to pay any amount due to the Subcontractor under the Subcontract to the Subcontractor and the receipt of the Subcontractor shall be full and sufficient discharge for any such payments;
- (c) subject to paragraph (a), DFAT is bound by, and must fulfil, comply with and observe all the provisions of the Subcontract and enjoys all the rights and benefits of the Contractor under the Subcontract; and
- (d) the performance by the Subcontractor of services under the Subcontract, is instead of, and not in addition to, any performance by the Contractor of its obligations under that Subcontract.

3.3 If DFAT exercises its rights of novation under this deed, DFAT may further novate the Subcontract by substituting a new contractor in place of the Contractor on the terms of this deed with appropriate alterations. In the event of such novation, the rights and obligations of the Subcontractor with respect to the Contractor shall become the rights and obligations of the Subcontractor with respect to the new contractor.

4 RELEASE

- 4.1 Except in relation to payment due from the Contractor to the Subcontractor under the Subcontract but unpaid on the date of issuing of the notice of substitution referred to in Clause 3 of this Schedule, the Contractor releases and discharges DFAT from any and all claims, actions, proceedings, obligations and liabilities (whether based in negligence or any other form of legal liability) in respect of or in any way arising from the Subcontract prior to the date of the notice of substitution in respect of the Subcontractor Services.

5 FURTHER ASSURANCES

- 5.1 Each Party must take such steps, execute all such documents, and do all such acts and things as may be reasonably required by the other Party to give effect to any of the transactions contemplated by this Deed.

6 DISCHARGE

- 6.1 Neither the Subcontractor nor the Contractor are discharged or released or excused from this Deed by an arrangement made between the Contractor and the Subcontractor prior to the issue of a notice of substitution with, by any change to the Subcontract, or by any forbearance whether as to payment, time or otherwise.
- 6.2 The Contractor undertakes to notify DFAT of any alterations to the Subcontract or other matter referred to in Clause 3 of this Schedule. A failure of the Contractor to notify DFAT under this clause does not alter the Subcontractor's obligations under this Deed.
- 6.3 This Deed by the Subcontractor for DFAT to assume the obligations of the Contractor is discharged in relation to the Subcontract only on completion by the Subcontractor of all its obligations under the Subcontract in respect of the Subcontractor Services, or, in the event of the issue of a notice of substitution, on the due and proper performance of the Subcontract by the Subcontractor.
- 6.4 The obligations of DFAT under this Deed in its application to the Subcontract must not exceed the obligations of the Contractor under the Subcontract.

7 NOTICES

- 7.1 A notice required or permitted to be given by one Party to another under this Deed must be in writing and is treated as being duly given and received:
- (a) when delivered (if left at that Party's address);
 - (b) on the third Business Day after posting (if sent by pre-paid mail); or
 - (c) on the Business Day of transmission (if given by facsimile and sent to the facsimile receiver number of that Party and the facsimile machine provides an affirmation of a successful transmission).

Address of Party

- 7.2 For the purposes of this clause, the address of a Party is the address set out below or another address of which that Party may from time to time give notice to each other Party:

DFAT

To: Department of Foreign Affairs and Trade
Attention: Country Program Manager – PNG TSSP2
Address: RG Casey Building
John McEwan Crescent
Barton ACT 0221
AUSTRALIA

Facsimile:

Contractor

To: Contractor's Name
Attention:
Address: Contractor's Address
Facsimile: Contractor's Fax

Subcontractor

To:
Attention:
Address:
Facsimile:

8 LAWS

- 8.1 This Deed is subject to and construed in accordance with the laws in force in the Australian Capital Territory.

9 WARRANTY

- 9.1 The Subcontractor and the Contractor each warrant and represent to DFAT that at all times:
- (a) the execution and delivery of this Deed has been properly authorised by all necessary corporate action of the Subcontractor and the Contractor respectively;
 - (b) the Subcontractor and the Contractor respectively each has full corporate power and lawful authority to execute and deliver this Deed and to consummate and perform or caused to be performed its obligations under this Deed;

Schedule 5

- (c) this Deed constitutes a legal, valid and binding obligation of the Subcontractor and the Contractor respectively, enforceable in accordance with its terms by appropriate legal remedy; and
- (d) to the best of each of the Subcontractor's or the Contractor's knowledge, there are no actions, claims, proceedings or investigations pending or threatened against or by the Subcontractor or the Contractor respectively that may have a material effect on the ability of the Subcontractor or the Contractor respectively to perform its obligations under this Deed.

10 GENERAL**Counterparts**

- 10.1 This Deed may be executed up to three (3) counterparts and all of those counterparts taken together constitute one and the same instrument.

Attorneys

- 10.2 Where this Deed is executed on behalf of a Party by an attorney, that attorney by executing declares that the attorney has no notice of the revocation of the power of attorney under the authority of which the attorney executes this Deed on behalf of that Party.

Further Assurance

- 10.3 Each Party must do, sign, execute and deliver and must procure that each of its employees and agents does, signs, executes and delivers all deeds, documents, instruments and acts reasonably required of it or them by notice from another Party effectively to carry out and give full effect to this Deed and the rights and obligations of the Party under it.

Assignment

- 10.4 No Party may assign or transfer any of its rights or obligations under this Deed without the prior consent in writing of the other Parties. DFAT may withhold its consent in its absolute discretion.

EXECUTED as a Deed.

SIGNED, for and on behalf of the)
COMMONWEALTH OF)
AUSTRALIA in the presence of:)

) Signature

.....
 Signature of witness

.....
 Name of witness
(Print)

SIGNED for and on behalf of)
[Subcontractor] by:)
)
)

.....
 Director)
 Name of Director)
(Print))
 Director/Secretary)
 Name of Director/Secretary)
(Print))

SIGNED for and on behalf of)
[Contractor] by:)
)
)

.....
 Director)
 Name of Director)
(Print))
 Director/Secretary)
 Name of Director/Secretary)
(Print))

SCHEDULE 6— Not Used

Contract 68980

Schedule 7

SCHEDULE 7 – Not Used

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Schedule 8

SCHEDULE 8– Declaration of Status

THIS DEED POLL is made on the _____ day of []

in favour of **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 **SMEC International Pty Limited** (the “Contractor”) have entered into a Contract for the purpose of a project in Papua New Guinea.
- B. The Adviser has been engaged by the Contractor to work on the project.
- C. DFAT requires the Adviser to enter into this Deed in order to confirm their eligibility to receive allowances under the Adviser Remuneration Framework for the DFAT – Australian Aid Program.

THE ADVISER DECLARES AS FOLLOWS:

1 INTERPRETATION

1.1 In this Deed:

“**Dependant**” means a person who:

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

“**Partner**” means a person who:

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

2 ADVISER STATUS

2.1 The Adviser [does/does not] usually reside in the location where they Contractor be working on the project.

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Schedule 8

- 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 an 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 must inform DFAT or the Contractor promptly if their status as described in this Clause 2 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.
- 3.2 If DFAT makes a request under **Clause 3.1**, the Adviser must promptly comply with the request.

EXECUTED as a deed poll.

SIGNED, by the Adviser in the presence)

of:) Signature of

.....

Signature of witness

.....

Name of witness
(Print)

Contract 68980

Schedule 9

SCHEDULE 9 -ADVISER REMUNERATION FRAMEWORK

s 22(1)(a)(ii)

Contract 68980

Schedule 9

s 22(1)(a)(ii)

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Schedule 9

s 22(1)(a)(ii)

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Schedule 9

Discipline Group A***General Administration and Corporate Services***

Administrative Services

Contracting and Purchasing

Facilities/Travel

Program Budgeting

Printing/Graphics & Cartography

Human Resources Administration

Financial Management

Public Affairs and Communication

Data and Information Services

Documentation and Records Management

Computers/Communications & Technical Support, incl:

Hardware, software and training

Web maintenance/Homepage design

Accounting, Audit and Statistics

Accounting

Internal Audit

Statistics

Procurement and Grant Administrative Services

Administrative Services and Support

Tender and Grant Process Administration

Contract 68980

Schedule 9

Discipline Group B	
<p><i>Agriculture</i> Agricultural Extensions Agro Industry/Agribusiness Management Agronomy Fisheries Forestry Livestock Natural Resource Management Tree Crops Statistics</p> <p><i>Food Security and Rural Development</i> Agricultural productivity Rural Market Development Social Protection</p> <p><i>Humanitarian, Emergency, Risk Management</i> Humanitarian Policy</p> <p><i>Information Systems</i> Communications Data Communications and Infrastructure, incl: <i>Network administration</i> <i>Voice communications</i> Systems software design & implementation Large scale data management - <i>System design</i> IT Engineering</p> <p><i>Social and Political Science</i></p> <p><i>Human Resources Development</i></p>	<p><i>Logistics</i></p> <p><i>Education</i> Education Training</p> <p><i>Public Health</i> Nutrition Nursing Occupational Health</p> <p><i>Research</i></p> <p><i>Gender</i></p> <p><i>Governance</i> Political Democratic Governance Public Sector Management Governance Reforms and Decentralisation Governance Support Services</p> <p><i>Social Development</i> Social Development – Safeguards incl: <i>resettlement and displacement of indigenous people</i> Social Development Child Protection Human Rights Political and Social Analysis and Social Change Communications for Development (C4D)</p> <p><i>Community Development (Related to Infrastructure)</i></p> <p><i>Fragility and Conflict</i> Fragility and Conflict training and Advisory Support</p>

Contract 68980

Schedule 9

Discipline Group C	
<p><i>Biological Sciences and Ecology</i> Biological Sciences and Ecology Biotechnology</p> <p><i>Climate Change and Environmental Services</i> Mitigating and Avoiding Greenhouse Gas Emissions Climate Change Adaptation Assessment/Monitoring Biodiversity Waste Natural Resources Pollution Sustainable Development</p> <p><i>Economics/Financial Analysis</i> Economics/financial analysis, incl: Project feasibility study Sector study Econometrics modelling Environmental economics Fiscal International trade/Finance Labour economics/employment Macroeconomics (including policy) Management accounting Microeconomics Monetary Poverty Procurement / Public Finance Management</p> <p><i>Engineering</i> Architecture Chemistry Carbon market Clean development mechanisms Energy Environmental engineering</p>	<p><i>Industry</i> Mining Geology Petroleum Gas Power Telecommunications</p> <p><i>Project Management</i> Country Operations Management Project monitoring, operations & evaluation</p> <p><i>Legal (General)</i></p> <p><i>Medicine (General)</i></p> <p><i>Design</i> Strategic Programming Operational Design (Activity and Program) Organisational Capacity Building (Strategy development, design and monitoring and evaluation) Theory of Change/ Program Logic Facilitation</p> <p><i>Monitoring and Evaluation</i> Strategic Evaluation Strategic Monitoring and Program Performance Systems Activity Monitoring and Performance Systems Activity Evaluation</p> <p><i>Capacity Development</i></p> <p><i>Humanitarian, Emergency and Disaster Risk Management</i> Disaster Risk Management (DRM) Humanitarian Emergency and Preparedness Response Humanitarian Policy Disaster Risk Reduction (DRR) Assistance to Refugees and Displaced People</p>

Contract 68980

Schedule 9

<p><i>Due Diligence</i> Due Diligence Financial Due Diligence</p> <p><i>Infrastructure</i> Transport Urban Development Energy and Information, Communications and Technology Infrastructure Management Public Buildings Water and Sanitation</p>	<p><i>Procurement and Grant Administration Services</i> Probity Services Procurement and grant policy / project management</p> <p><i>Procurement Assessment and Capacity Development Advisory Services</i> Procurement Assessment and Capacity Development Advisory Services</p>
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Contract 68980

Schedule 9

Discipline Group D***Finance and Investment (specialised)***

Banking

Build Operate

Transfer (sectoral/ country level)

Capital Markets

Finance/Fund Management/Co-finance

Guarantee/ Insurance

International trade

Investment

Public/Private Partnerships

Sector Pricing/Tariffs

Specialised Finance (insurance, social security, pension schemes)

Institutional Reform

Organisational planning and management

Strategy development

Private sector development and restructuring

Private Sector Development/ Privatisation

Public enterprise management and restructuring

Legal (specialised)

Deregulation

Judicial Strengthening & Regulation

Public Finance Management & Fiscal Decentralisation***Governance***

Governance reforms and Decentralisation

Contract 68980

Schedule 9

Job Levels

Level	Description	Indicative requirements
1	Performs a variety of research and analytical tasks requiring independent initiative. However, the overall direction of the work is clearly defined and forms a component of a larger project. Work is performed under guidance. Contacts with counterparts predominantly at the administrative level.	<ul style="list-style-type: none"> - Up to 5 years relevant experience in one or more professional disciplines, or equivalent combination of relevant education and experience. - Theoretical base in subject area, with ability to translate theory into practice - Thematic/regional knowledge (where required)
2	Performs professional level analysis or research requiring technical skills and independent initiative within a well-defined program of work. Works with limited supervision. Contacts with counterparts predominantly at a working level.	<ul style="list-style-type: none"> - 5 or more years relevant experience in one or more professional disciplines, or equivalent combination of relevant education and experience. - Thorough knowledge of functional area, combining a broad grasp of relevant theory and principles - Ability to participate in multi-disciplinary teams and to work independently. - Strong thematic/regional knowledge (where required)
3	Provides informed technical or policy advice and or advises on complex program. Ability to coordinate contributions of other specialists to complete a joint project. Recognised as an expert in the field with appropriate academic qualifications and substantial professional experience. Contacts with counterparts predominantly at strategic/management level.	<ul style="list-style-type: none"> - 10 or more years relevant experience in one or more professional disciplines, or equivalent combination of relevant education and experience. - Strong theoretical base in subject area, with ability to translate theory into practice - Leadership with ability to function as team leader and ability to coach and mentor more junior staff. - Thematic/regional expertise (where required)
4	Acts as a senior adviser on major policy work or is responsible for leading complex projects/programs, usually involving the participation of one or more multidisciplinary teams. Strong academic background and or internationally recognised professional status in the field. Extensive relevant professional experience including at senior advisory or managerial levels. Contacts with counterparts predominantly at strategic/management level.	<ul style="list-style-type: none"> - 10 or more years professional experience or equivalent combination of education and experience. - Outstanding theoretical base in subject area, with ability to conceptualise, design and implement major projects and to produce major/complex reports or studies. - Outstanding thematic/regional expertise (where required) - Demonstrated professional leadership and ability to lead a team of professionals and ability to coach and mentor more junior staff.

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Schedule 10

SCHEDULE 10 – Not Used

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Schedule 11

Schedule 11 – Contractor Performance Assessment

Contractor/Facility:	
Agreement No.:	Activity:
Activity Manager:	Country:
Contract Period from until	Date of Assessment:
Nature of Assignment:	

Contractor Performance Ratings:

1 <i>Very Weak</i>	Serious underperformance, not meeting most contract/terms of reference deliverables
2 <i>Weak</i>	Major effort needed to improve delivery of core responsibilities identified in the contract/terms of reference; DFAT very hands on in managing areas where contractor is not delivering
3 <i>Less than satisfactory</i>	Effort needed to improve delivery of one or more core responsibilities identified in the contract/terms of reference
4 <i>Satisfactory</i>	Minor effort needed to improve delivery of some areas of responsibility identified in the contract/terms of reference
5 <i>Very Good</i>	All responsibilities identified in the contract/terms of reference delivered efficiently and effectively
6 <i>Outstanding</i>	All responsibilities identified in the contract/terms of reference delivered with a high degree of efficiency and effectiveness, efficiently, and proactive steps taken to achieve outcomes above and beyond identified responsibilities

Assessment Criteria	Performance Rating	
1. In-Australia management and administrative support – <i>includes: ability to plan and administer activities in accordance with the contract; Support services provided to the in-country team; Regular monitoring and engagement with the in-country team</i>		
2. In-country management and administrative support – <i>includes: Management responsiveness, particularly to policy change and development context; Appropriate planning and monitoring of activities; Quality of advice to DFAT and other stakeholders, where appropriate</i>		
3. Relationship with DFAT – <i>includes: Cooperation in all matters relating to the contract; Open and honest in addressing problems; Regular communication and updates</i>		
4. Activity financial management – <i>includes: Responsiveness to DFAT's requests for financial information; Ability to deliver services within budget; Accuracy of financial information, including invoices, acquittals and forward estimates</i>		
5. Risk management – <i>includes: Proactively and promptly identifies and informs DFAT of substantive issues likely to adversely affect timing, cost or quality of services; Provides recommendations for actions to manage risks</i>		
6. Quality of stakeholder communication – <i>includes: Feedback received from partner government (& other development partners where appropriate) on satisfaction with consultation and services provided; Time and effort invested in developing relationships with counterparts and key stakeholders</i>		
7. Continuous improvement – <i>includes: Proactively identifies areas for improvement of activity and applies lessons learnt</i>		

Contract 68980

Schedule 11

8.	Quality of planning documentation – includes: <i>Timely submission of documentation which meets counterpart/stakeholder requirements; Documentation does not require multiple re-writes</i>		
9.	Attention to DFAT – Australian Aid Program's policies – includes <i>Evidence of plans, monitoring and results which show progress towards aid policy commitments for the DFAT – Australian Aid Program (e.g. gender, environment, child protection)</i>		
10.	Performance of team leader – includes <i>Effective communication and leadership; Achieves results against contracted responsibilities; Relationship with stakeholders; Management of team</i>		
11.	Performance of other key activity personnel – includes: <i>Achieves results against contracted responsibilities; Relationship with stakeholders</i>		
12.	Ability to maintain quality project personnel – includes: <i>Suitability of staff; Staff turnover levels</i>		
13.	Timeliness in replacing activity personnel – includes: <i>Minimal disruption; Proactively informs DFAT of staff changes; Satisfactory recruitment process</i>		
14.	Managing underperformance, where appropriate – includes: <i>Quality of management control of personnel performance; Timely identification of issues with personnel and proactively proposing solutions; Willingness to replace personnel where necessary</i>		
15.	Quality and timeliness of activity milestones/ deliverables – includes: <i>Achieves milestones/deliverables within the set timeframe; Strategies for managing delays; Documentation supplied (e.g. milestone reports, M&E frameworks) meets quality standards set by DFAT</i>		
16.	Quality of monitoring and evaluation (M&E) – includes: <i>Effectively measures and reports on activity progress; M&E framework (or equivalent) has clearly defined and measurable objectives; M&E framework (or equivalent) has effective quantitative and qualitative indicators</i>		
17.	Appropriately addressing sustainability (i.e., continuation of benefits/outcomes after external support is removed) – includes <i>Understanding of key factors promoting or inhibiting sustainability and a strategy for promoting sustainability; Appropriately preparing for transition following completion of the activity; Where appropriate, demonstrates strengthening of partner government systems</i>		
18.	Responsiveness to DFAT – includes: <i>Timely response to DFAT requests and instructions; Ability to respond to unexpected requests; Acceptance of DFAT decisions</i>		
(a)	Overall Rating (average of all scores)	Choose from list - round to ne	

DFAT Activity Manager Name	Company/Facility Representative Name
Date: Signature _____	Date: Signature _____

Contract 68980
Schedule 12

SCHEDULE 12 – Adviser Performance Assessment

NOTE TO USER: Adviser Performance Assessments are mandatory for all DFAT Adviser engagements, and must be conducted either annually (for engagements longer than one year) or on completion (for shorter engagements). This form is intended to assist and record the assessment of an Adviser.

The Contractor and Adviser Performance Assessments Guideline provides further information on this process for DFAT staff.

This form may be used by DFAT staff or by a Managing Contractor (MC), depending on who is responsible under the Contract for managing the Adviser's performance. Where an MC conducts the assessment, the DFAT officer responsible for managing the activity must receive a copy and sign it. Where an DFAT officer assesses an Adviser engaged by an MC, the MC must receive a copy and sign it.

In all cases, the completed Adviser Assessment must be provided to the Adviser and the Adviser must be given 28 days in which to make written comment and sign the form.

Do not use this form to assess the performance of the firm or facility for which an adviser may be working for or contracted to. A separate form for these assessments is available here.

There are 6 questions in the assessment sheet. Only answer questions that are relevant having regard to the Adviser's terms of reference. To obtain an average score in the final question, add all scores together and divide by the number of questions answered. If a score for all 6 questions was entered, the entry for Overall Rating would be the total divided by 6. Answers of "N/A" are not counted – for example, if a score was entered for 5 questions and "N/A" for one, the Overall Rating would be the total divided by 5.

The original of the completed assessment can be kept on the activity file. A copy must be sent to ASPP either by internal mail or to [s 22\(1\)\(a\)\(ii\)@dfat.gov.au](mailto:s22(1)(a)(ii)@dfat.gov.au)

NOTE AND PRIVACY STATEMENT FOR ADVISER: You are required to sign this assessment within 28 days of receipt. You are entitled to respond to any issues raised in this assessment. Any responses must be in writing and returned to the party responsible for conducting the assessment (i.e. DFAT or your Managing Contractor) within 28 days of receipt together with the signed copy of the assessment. Failure to respond within 28 days of receipt is deemed to indicate your acceptance of the assessment.

DFAT or the Managing Contractor may also seek the views of Partner Government personnel involved in the activity in making this assessment.

A copy of this assessment and your response (if you choose to make one) will be provided to the relevant section of DFAT for placement on your performance file and on a performance register available to DFAT staff. Information from the assessment, including your response, can be used by DFAT as part of any future adviser selection process including but not limited to consideration by Tender Assessment Panels convened by DFAT to evaluate tender proposals. The assessment is considered current for a period of five (5) years from the date of signature and may be referred to within that period.

Information from the assessment, including your response, may also be provided to relevant Partner Government personnel, only for the purpose of a Partner Government managed procurement exercise using DFAT funds.

A consistent record of *Very Good* to *Outstanding* performance will be considered highly in future DFAT adviser selections.

A record of underperformance (defined as an overall rating of "Less than Satisfactory" or below in any DFAT activity over the past five (5) years or equivalent assessments from other referees/employers) will be taken into account if you are considered for future work with DFAT.

DISPUTES: If an adviser disputes any ratings or comments, the DFAT Agreement Manager or Managing Contractor who conducted the assessment will escalate the assessment to the responsible Director or Counsellor for the DFAT – Australian Aid Program. DFAT will make all reasonable attempts to resolve disputes at this level before the assessment is finalised. DFAT – Australian Aid Program's complaints policy may be used where attempts to resolve disputes are unsuccessful.

Further information on handling disputes is available for DFAT staff in the Contractor and Adviser Performance Assessments Guideline.

Contract 68980
Schedule 12

Adviser Name:	Adviser Firm or Facility:	
Activity:	Agreement No.:	ARF level: Choose from list
Activity Manager:	Country:	
Engagement Period from until	Assessment date:	
Nature of Assignment:		

Adviser performance ratings

1	<i>Very Weak</i>	Serious underperformance, not meeting most contract/terms of reference deliverables
2	<i>Weak</i>	Major effort needed to improve delivery of core responsibilities identified in the contract/terms of reference; DFAT very hands on in managing areas where contractor is not delivering
3	<i>Less than satisfactory</i>	Effort needed to improve delivery of one or more core responsibilities identified in the contract/terms of reference
4	<i>Satisfactory</i>	Minor effort needed to improve delivery of some areas of responsibility identified in the contract/terms of reference
5	<i>Very Good</i>	All responsibilities identified in the contract/terms of reference delivered efficiently and effectively
6	<i>Outstanding</i>	All responsibilities identified in the contract/terms of reference delivered with a high degree of efficiency and effectiveness, efficiently, and proactive steps taken to achieve outcomes above and beyond identified responsibilities

Assessment Criteria	Performance Rating	Comments
1. Understanding of the requirements of Terms of Reference or Scope of Services		
2. Awareness and response to assignment risks, issues and problems		
3. Effectiveness of communications with counterparts, DFAT and other stakeholders		
4. Responsiveness to requests and instructions		
5. Quality of contract milestones & deliverables (including reports, assessments & advice)		
6. Assignment completed within time and budget		
7. Overall rating (average of all scores)		

* Ratings of 1 (*Very Weak*), 2 (*Weak*), 3 (*Less than Satisfactory*) or 6 (*Outstanding*) must be supported by further comments.

<i>DFAT Activity Manager Name</i>	<i>Company/Facility Representative Name (where applicable)</i>	<i>Adviser Name</i>
Date:	Date:	Date:
Signature	Signature	Signature
_____	_____	_____



Australian Government
Department of Foreign Affairs and Trade

DEED OF AMENDMENT

Dated: 23 NOVEMBER 2017

Commonwealth of Australia represented by the Department of Foreign Affairs and Trade ('DFAT') ABN 47 065 634 525

SMEC International Pty. Ltd. ('Contractor') ABN 32 065 440 619

FOR

Management of the Transport Sector Support Program – Phase 2 (Papua New Guinea)

DFAT AGREEMENT NUMBER: 68980

CONTRACT made this 20th day of November 2014

THIS DEED OF AMENDMENT is made this 23 day of NOVEMBER 2017

BETWEEN:

The COMMONWEALTH OF AUSTRALIA, represented by the DEPARTMENT OF FOREIGN AFFAIRS AND TRADE, ABN 47 065 634 525 ("the Commonwealth")

AND

SMEC INTERNAIONAL PTY. LTD., ABN 32 065 440 619, Suite 2, Level 1, 243 Northbourne Avenue, Lyneham, ACT 2602, ("the Contractor") (respectively 'the Parties').

RECITALS:

- A. On 20 November 2014 the Commonwealth and the Contractor entered into Contract 68980 for the provision of the Goods and/or Services described in the Contract.
- B. The Contract has been amended in writing on 12 February 2016.
- C. The Parties have now agreed to amend the Contract Conditions for the Goods and/or Services provided by the Contractor as set out in this Deed of Amendment ('Deed').

OPERATIVE PROVISIONS:

- 1. In this Deed, unless the contrary intention appears, a reference to "the Contract" is to the Contract referred to in Recital A above.
- 2. The Contract is amended as set out below:

Contract Details	Delete existing Address of the Australian High Commission and replace with the following: Address: Australian High Commission Godwit Road, Waigani, NCD PAPUA NEW GUINEA
Contract Details	Delete existing Term of the contract and replace with the following: Term: Start Date: 1 December 2014 End Date: 31 May 2018
Part 1, Clause 1.1	Delete existing definition of Commonwealth Grant Guidelines and replace with new definition as follows: Commonwealth Grant Rules and Guidelines means the guidelines issued by the Minister for Finance that govern granting activities by

Commonwealth agencies and departments. Details are available at: <http://www.finance.gov.au>

Part 1, Clause 1.1 Delete existing definition of Contractor Confidential Information at Clause 1.1 and replace with new definition as follows:

Contractor Confidential Information means information that is by its nature confidential and/or is designated as confidential in Schedule 4 (Confidential Information) but does not include this Contract or information which is or becomes public knowledge other than by breach of this Contract or any other confidentiality obligation (Refer to Department of Finance's Confidentiality Test for more information: <http://finance.gov.au/procurement/procurement-policy-and-guidance/buying/contract-issues/confidentiality/procurement-cycle/practice.html>)

Part 1, Clause 1.1 Insert new definition of Control as follows:

Control of a corporation means having the power (directly or indirectly) to control more than 50% of the membership of the board of directors, more than 50% of the voting shares of the corporation, or otherwise director or cause the direction of the management and policies of the corporation.

Part 1, Clause 1.1 Insert new definition of DFAT Confidential Information as follows:

DFAT Confidential Information means information that is by its nature confidential and/or is designated as confidential in Schedule 4 (Confidential Information) but does not include this Contract or information which is or becomes public knowledge other than by breach of this Contract or any other confidentiality obligation (Refer to Department of Finance's Confidentiality Test for more information: <http://finance.gov.au/procurement/procurement-policy-and-guidance/buying/contract-issues/confidentiality/procurement-cycle/practice.html>).

Part 1, Clause 1.1 Delete existing definition of Former DFAT Employee at Clause 1.1 and replace with new definition as follows:

Former DFAT Employee A person who was previously employed by DFAT, whose employment ceased within the last nine (9) months and who was substantially involved in the design, preparation, appraisal, review, and/or daily management of this Contract.

Part 1, Clause 1.1	Delete existing definition of Privacy Commissioner at Clause 1.1 and replace with new definition as follows: Privacy Commissioner means the person so named in the <i>Australian Information Commissioner Act 2010 (Cth)</i> .
Part 1, Clause 1.1	Insert new definition of Standard as follows: Standard means a document, approved by a recognised body such as Standards Australia, the International Organisation for Standardisation, the International Electrotechnical Commission or the International Telecommunication Union, that provides, for common and repeated use, rules, guidelines, or characteristics for goods or services, or related processes and production methods, with which compliance is not mandatory, unless the goods or services are subject to regulation by government.
Part 1, Clause 4.2	Delete existing Clause 4.2 and replace with new Clause 4.2 as follows: 4.2 The Contractor must commence provision of the Goods and/or Services by 1 December 2014 and complete the provision of Goods and/or Services by 31 May 2018 as set out in the Contract Details.
Part 1, Clause 5.4	Insert new Clause 5.4 as follows: 5.4 Without limiting any other rights or remedies available to DFAT under this Contract, DFAT may reduce funding available under this Contract if there is a policy or funding decision which impacts upon Australia's overseas development assistance budget and associated programs.
Part 1, Clause 5.5	Insert new Clause 5.5 as follows: 5.5 Upon reasonable notice being given by DFAT to the Contractor of policy or funding decisions under Clause 5.4, the Contractor will negotiate with DFAT reasonably reduced management fees, personnel fees and operational costs to be paid under this Contract.
Part 1, Clause 6.1 (g)	Insert new Clause 6.1 (g) as follows: (g) where an Australian Standard (or in its absence, international) is applicable for Goods and/or Services provide evidence of relevant certifications and comply with periodic auditing by an independent assessor if requested by DFAT.
Part 1,	Delete existing Clause 9.2 and replace with new Clause 9.2 as follows:

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Clause 9.2 9.2 Where this Contract is for Services they must be performed:

- (a) with due skill, care and diligence;
- (b) to a professional standard and in a timely manner; and
- (c) in the most cost-effective manner and using suitable materials.

Part 1, Clause 9.3 Delete existing Clause 9.3 and replace with new Clause 9.3 as follows:

9.3 Where this Contract is for Goods they must:

- (a) be reasonably fit for their intended purpose;
- (b) be provided in compliance with all relevant Australian (or if none apply, international) and Partner Country industry standards, best practice, guidelines and codes of practice;
- (c) ensure any product resulting from the Goods will be of such a nature and quality, state or condition that they can be reasonably expected to achieve their intended result;
- (d) be provided in a way that demonstrates the Contractor has sought to improve the quality, effectiveness and efficiency of the Goods at every opportunity; and
- (e) where for Construction, be provided in accordance with the design brief and/or functionality requirements and, using new materials unless otherwise specified.

Part 1, Clause 10.8 (c) Insert new Clause 10.8 (c) as follows:

(c) the services comply with the applicable Australian (or international) Standards identified in Schedule 1 Statement of Requirements.

Part 1, Clause 24.2 Delete existing Clause 24.2 and replace with new Clause 24.2 as follows:

24.2 The addresses, email addresses and fax numbers of the Parties are:

DFAT
Attention: **s 22(1)(a)(ii)**
Address: Department of Foreign Affairs and Trade
Australian High Commission
Goodwin Road, Waigani NCD
PAPUA NEW GUINEA

Fax: **s 22(1)(a)(ii)**
Email: **s 22(1)(a)(ii)** @at.gov.pg

CONTRACTOR

Attention: **s 22(1)(a)(ii)** IMEC International Pty
Ltd
Address: Suite 2, Level 1
243 Northbourne Avenue
Lynton ACT 2602
AUSTRALIA

Tax: **s 22(1)(a)(ii)**
Email: **s 22(1)(a)(ii)** @mec.com

Part 2, Clause 27.17 (b) Delete existing Clause 27.17 (b) and replace with new Clause 27.17 (b) as follows:

(b) exercise its right pursuant to Clause 27.15, and/or

Part 2, Clause 29.1 Delete existing Clause 29.1 and replace with new Clause 29.1 as follows:

29.1 The Contractor is responsible for ensuring that it and its Personnel comply with:

- (a) applicable laws of the Commonwealth, any state, territory or local authority and applicable Commonwealth Government policies as set out in this Contract or as notified to the Contractor from time to time;
- (b) applicable laws of any jurisdiction in which any part of the Contract is performed.

Part 2, Clause 33.1 Delete existing Clause 33.1 and replace with new Clause 33.1 as follows:

33.1 The Contractor is a 'Contracted Service Provider' within the meaning of the Privacy Act 1988 (Cth) and, to the extent that it deals with personal information in the provision of Services, agrees to:

- (a) comply with the Australian Privacy Principles as they apply to DFAT, including:
 - (i) to use or disclose personal information only for the purposes of this Contract;
 - (ii) take necessary steps to ensure adequate security measures are in place to protect personal information from misuse, interference and loss and from unauthorised access, modification or disclosure;
 - (iii) comply with the requirements of Australian Privacy Principle 8 regarding the disclosure of personal information to an overseas recipient;
- (b) not do any act, or engage in any practice, that would - if done in

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	or engaged in by DFAT - breach the Australian Privacy Principles;
	(c) comply with any reasonable request or direction of DFAT or the Privacy Commissioner in relation to access to, or handling of, personal information;
	(d) immediately notify DFAT if it becomes aware of a breach or possible breach of any obligations referred to in this clause, or the initiation of any action by the Privacy Commissioner relevant to this Contract; and
	(e) investigate any complaint arising out of a breach or possible breach of any obligations referred to in this clause, and notify DFAT of that investigation and outcome.
Part 2, Clause 33.2	Insert new Clause 33.2 as follows: 33.2 The Contractor agrees to indemnify DFAT in respect of any loss, liability or expense suffered or incurred by DFAT which arises directly or indirectly from a breach by the Contractor of any obligations referred to in this clause.
Part 3, Clause 36.1 (a)	Delete existing Clause 36.1 (a) and replace with new Clause 36.1 (a) as follows: (a) a Partner performance assessment;
Part 3, Clause 36.2	Delete existing Clause 36.2 and replace with new Clause 36.2 as follows: 36.2 Performance assessments will be substantially in accordance with the assessment sheet in Schedule 11 (Partner Performance Assessment). Within 15 days of receiving a performance assessment from DFAT, the Contractor must: (a) sign and return to DFAT the Partner Performance Assessment together with any response; and (b) ensure that all other performance assessments together with any response the sub-contractor or any personnel wishes to include are signed and returned to DFAT.
Part 3, Clause 36.4 (c)	Delete existing Clause 36.4 (c) and replace with new Clause 36.4 (c) as follows: (c) the sub-contractor will sign and return the sub-contractor performance assessment together with any response within 15 days of receipt and will ensure that sub-contractor personnel performance assessments together with any response any personnel wishes to include are signed and returned within 15 days of receipt.

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Part 3, Clause 37.7	Delete existing Clause 37.7 and replace with new Clause 37.7 as follows: 37.7 When engaging Personnel for work in a Partner Country, the Contractor will use its best endeavours to ensure they are certified as fit and healthy by a legally qualified medical practitioner to work in the Partner Country, and have received the necessary medical advice, including that on vaccinations and other preventive medical assistance allowing them to undertake work in-country in a safe manner.
Part 4, Clause 40.2 (i)	Delete existing Clause 40.2 (i) and replace with new Clause 40.2 (i) as follows: (i) number of days/months worked in the time period specified by DFAT;
Part 5, Clause 44.2 (i)	Delete existing clauses 44.2 (h) and replace with new Clause 44.2 (h) as follows: (h) it is in Australian dollars or converted into Australia dollars at the exchange rate in accordance with the methodology agreed between the Contractor and DFAT as amended from time to time.
Part 6, Clause 52.1	Delete existing Clause 52.1 and replace with new Clause 52.1 as follows: 52.1 The Contractor must immediately notify DFAT if the Contractor (including Contractor Personnel) or a sub-contractor is: (a) undergoes a change in Control of the Contractor's legal entity; (b) listed on a World Bank List or on a Relevant List; (c) subject to any proceedings or an informal process which could lead to listing on a World Bank List or listing on 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.
Part 6, Clause 53.2	Delete Clause 53.2 and replace with new Clause 53.2 as follows: 53.2 DFAT may terminate this Contract by notice to the Contractor in accordance with Clause 24 (Notices) in any of the following circumstances: (a) the Contractor commits a material breach or breach which, in DFAT's opinion, is not capable of remedy; (b) the Contractor commits a breach capable of being remedied by

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	<p>the Contractor but the Contractor fails to remedy it within ten (10) Business days of receipt of a notice from DFAT specifying the breach and requiring the Contractor to remedy the breach;</p> <p>(c) the Contractor commits a Persistent Breach;</p> <p>(d) where the Contractor is a company- if there is appointed or if steps are taken to appoint a liquidator, receiver, manager, controller or an administrator over the whole or any part of its affairs;</p> <p>(e) where the Contractor is an individual – if it enters into a scheme of arrangement with its creditors, commits any act of bankruptcy or becomes bankrupt, or becomes incapable of managing its own affairs;</p> <p>(f) where the Contractor has entered into this Contract in the capacity of trustee of a trust – if any event occurs or any action or step is (or is proposed to be) taken, which limits, restricts, or prevents it being indemnified out of the assets of that trust in respect of its obligations and liabilities under this Contract;</p> <p>(g) the Contractor fails to notify DFAT under Clause 52 (Early Notification);</p> <p>(h) the Contractor ceases to hold any licence, qualification, approval, authority or consent required for the Contractor to comply with its obligations under this Contract (except to the extent that this is outside the Contractor's reasonable control);</p> <p>(i) the Contractor made a statement or warranty in its Tender or failed to make a disclosure in its Tender Declaration leading to this Contract and DFAT is satisfied on reasonable grounds that the statement was materially inaccurate, incorrect or misleading or the failure to make a disclosure would, in DFAT's opinion not have led to the formation of a Contract;</p> <p>(j) the Contractor is convicted of any offence during the Term of this Contract;</p> <p>(k) the Contractor undergoes a change in Control of the Contractor's legal entity, which in DFAT's reasonable opinion, may adversely affect the Contractor's ability to perform the Services under this Contract;</p> <p>(l) the Contractor, its Personnel or subcontractors are or become listed on a World Bank or Relevant List or are subject to any proceedings or an informal process that may lead to them becoming so listed;</p> <p>(m) the Contractor does not take appropriate steps to manage and resolve an allegation of child exploitation or abuse with respect to this Contract, including a failure to inform DFAT immediately of any allegation of child abuse or exploitation in accordance with DFAT's Child Protection Policy, and/or</p>
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	<p>(n) the Contractor commits a breach of Clauses 29.1 (Compliance with Laws and Policies) or 61.1 (Compliance with DFAT Policies) and does not remedy the breach within ten (10) Business Days (or such longer period as DFAT may specify in the notice) of receipt of a notice from DFAT specifying the breach and requiring the Contractor to remedy the breach.</p>
Part 6, Clause 53.3	<p>Insert new Clause 53.3 as follows:</p> <p>53.3 For the avoidance of doubt, Clauses 53.1 (g) to (n) do not limit the generality of Clauses 53.1 (a) or (b).</p>
Part 6, Clause 54.1	<p>Delete existing Clause 54.1 and replace with new Clause 54.1 as follows:</p> <p>54.1 DFAT has an unfettered discretion to, by notice to the Contractor in accordance with Clause 24 (Notices), terminate or reduce the scope of this Contract from the time specified in the notice. Without limiting DFAT's rights under this Contract, at law or in equity, DFAT's rights under this Clause 54.1 include the discretion to terminate or reduce the scope of this Contract if DFAT determines that the continuation of this Contract, or the continuation of a program or initiative for the purposes of which this Contract was entered into, does not support the achievement of value for money by DFAT. The parties acknowledge and agree that such a determination by DFAT may be made in the absence of a breach of this Contract by the Contractor and due to circumstances beyond the Contractor's control.</p>
Part 6, Clause 54.2	<p>Delete existing Clause 54.2 and replace with new Clause 54.2 as follows:</p> <p>54.2 If DFAT exercises its right in Clause 54.1, the Contractor must comply with directions given by DFAT, cease or reduce (as applicable) the performance of work and immediately do everything possible to mitigate its losses, and all other losses, costs and expenses in connection from, or arising out of Termination, including novate any Subcontracts to DFAT or its nominee, if required by DFAT.</p>
Part 6, Clause 54.3	<p>Delete existing Clause 54.3 and replace with new Clause 54.3 as follows:</p> <p>54.3 If DFAT terminates this Contract under this Clause 54, DFAT will only be liable to the Contractor for the following loss or damage incurred as a direct consequence of termination of this Contract to the extent that they can be reasonably substantiated and are unable to be avoided or mitigated:</p> <p>(a) fees and any Reimbursable Costs, as payable under Schedule 2 (Pricing Schedule) for Goods and/or Services provided before the effective date of termination (on a pro-rata basis, if applicable);</p>

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	<p>(b) lease termination costs for early termination of leases required specifically and exclusively for the performance of the Contract;</p> <p>(c) the Contractor's finance termination costs required specifically and exclusively for performance of this Contract; and</p> <p>(d) payments made to Subcontractors which are not related entities of the Contractor and which were paid prior to the date of notice of termination of this Contract by DFAT; and</p> <p>(e) excluding all other loss or damage, including the cost of redundancies; the costs of terminating any subcontracts; loss of profits and all other forms of expectation loss.</p>
Part 6, Clause 54.6	<p>Delete existing Clause 54.6 and replace with new Clause 54.6 as follows:</p> <p>54.6 DFAT is not obliged to make any further payments to the Contractor (whether under this Contract, at law or in equity) if DFAT exercises its rights in Clause 54.1 except as expressly provided under this Clause 54.</p>
Part 6, Clause 54.7	<p>Insert new Clause 54.7 as follows:</p> <p>54.7 The Contractor must, in each subcontract, reserve a right of termination to take account of DFAT's right of termination under this Clause 54 (Termination for Convenience) and the Contractor must make use of such rights to mitigate losses in the event of termination by DFAT under the provisions of this Clause 54.</p>
Part 7, Clause 61.1 (a)	<p>Delete existing Clause 61.1 (a) and replace with new Clause 61.1 (a) as follows:</p> <p>(a) the disability inclusive strategy, "Development for All 2015-2020: Strategy for strengthening disability-inclusive development in Australia's aid program, accessible on the DFAT website at: http://dfat.gov.au/about-us/publications/Pages/development-for-all-2015-2020.aspx. Particular attention must be directed towards the Strategy's guiding principles;</p>
Part 7, Clause 61.1 (b)	<p>Delete existing Clause 61.1 (b) and replace with new Clause 61.1 (b) as follows:</p> <p>(b) the "Child Protection Policy", accessible on the DFAT website at: www.dfat.gov.au;</p>
Part 7, Clause 61.1 (c)	<p>Delete existing Clause 61.1 (c) and replace with new Clause 61.1 (c) as follows:</p> <p>(c) the "Environment Protection Policy for the Aid Program" (2014), accessible on the DFAT website at: www.dfat.gov.au;</p>

Part 7, Clause 61.1 (g)	<p>Insert new Clause 61.1 (g) as follows:</p> <p>(g) the Displacement and Resettlement of People in Development Activities Policy, accessible on the DFAT website at: www.dfat.gov.au; and</p>
Part 7, Clause 78	<p>Insert new Clause 78 as follows:</p> <p>78. NOVATION</p> <p>78.1 The Contractor must provide all necessary support and assistance to DFAT to facilitate project closeout and transition. This includes:</p> <p>(a) timely completion of handover activities as specified by DFAT and in line with the terms and conditions of this Contract;</p> <p>(b) working with DFAT's nominated supplier during the handover period to ensure program continuity; and</p> <p>(c) proactively working with DFAT and its nominated supplier to novate existing contracts, agreements and activities.</p>
Schedule 2	<p>Delete existing Schedule 2 and replace with new Schedule 2 as shown at Attachment A to this Deed of Amendment</p>
Schedule 11	<p>Delete existing Schedule 11 (Contractor Performance Assessment) and replace with new Schedule 11 (Partner Performance Assessment) as shown at Attachment B to this Deed of Amendment.</p>
Schedule 12	<p>Delete existing Schedule 12 and replace with new Schedule 12 as shown at Attachment C to this Deed of Amendment</p>
3.	<p>The amendments set out in this Deed take effect on the date on which this Deed is signed by the Parties</p>
4.	<p>In all other respects the Parties confirm the Contract</p>

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EXECUTED AS A DEED by the Commonwealth, by an authorised officer, and by the Contractor by its authorised officer(s).
SIGNED for and on behalf of the
COMMONWEALTH OF AUSTRALIA
represented by the
Department of Foreign Affairs and Trade by:

s 22(1)(a)(ii)
Signature of PGPA Delegate
s 22(1)(a)(ii)
Name of Delegate
(Print)

in the presence of:
s 22(1)(a)(ii)
Signature of Witness
s 22(1)(a)(ii)
Name of Witness
(Print)

SIGNED for and on behalf of
s 22(1)(a)(ii)IONAL PTY, LTD. by:
s 22(1)(a)(ii)

s 22(1)(a)(ii)
Name of Delegate
(Print)

AMENDMENT SUMMARY

The Contract has been amended in accordance with the Standard Conditions clause headed Amendment of the Contract on the following dates relating to:

Amendment Number	Date	Brief Summary of Amendment	Increase/Decrease in financial limit (AUD)	New Financial Limit (AUD)
1	12 Feb 2016	Implementation of Version 6 of the APF	s 22(1)(a)(ii)	
2	23 Nov 2017	Exercised option to extend contract for 6 months		

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Attachment A: Schedule 2 – Pricing Schedule

1. TOTAL AMOUNT PAYABLE

- 1.1 The maximum amount payable by DFAT to the Contractor shall not exceed the sum of **s 22(1)(a)(ii)** plus GST, if any, to a maximum of **s 22(1)(a)(ii)**. DFAT shall not be liable for any Costs or expenditure incurred by the Contractor in excess of this amount.
- 1.2 The maximum amount payable is comprised of items shown in Table 1 below:
Table 1: Summary Table (1 December 2014 to 31 May 2018)
s 22(1)(a)(ii)

2. MANAGEMENT FEE

- 2.1 The maximum amount payable to the Contractor in Management Fees shall not exceed the sum of **s 22(1)(a)(ii)** plus GST (see Annex 1, Table 3).
- 2.2 The Management Fee is comprised of the following:
 - (a) profits, including commercial margins and mark-up for personnel and project management;
 - (b) financial management costs, including the cost of independent audits of the Project and financial costs, if any, and the cost of financial charges;
 - (c) costs of Contractor administrative and head office staff if any;
 - (d) insurance costs as required by this Contract, but exclusive of medical insurance costs for Advisers;
 - (e) taxation, as applicable;
 - (f) costs of complying with the Contractor's reporting and liaison obligations under this Contract;
 - (g) costs associated with all personnel briefings in Australia or in-country;

- (h) costs associated with any subcontracting and procurement of goods and services;
- (i) costs (not otherwise covered under Adviser Support Costs), including domestic and international travel, accommodation, per diems and local transport costs where required for Contractor Head Office personnel;
- (j) any other overheads required to perform the Services in accordance with this Contract;
- (k) all escalators for the management fees for the term of this Contract; and
- (l) any allowance for risks and contingencies.

2.3 DFAT shall pay the Management Fees as follows within thirty (30) days as follows on receipt of a correctly rendered invoice:

- (a) Regular Monthly Payments: At the end of each month **s 22(1)(a)(ii)** of the Management Fee for the relevant period in accordance with Table 3 in Annex 1 of this Schedule 2; and
- (b) Performance Payments: At the end of each financial period (or other period as agreed in writing with DFAT) and subject to the Contractor's Performance Assessment in accordance with Schedule 11, up to **s 22(1)(a)(ii)** of the Management Fee for the preceding financial year or agreed period as per Table 2 below.

Table 2: Management Fees – Performance Payments

s 22(1)(a)(ii)

3. PERFORMANCE INCENTIVE PAYMENT

- 3.1 DFAT shall pay the Contractor up to a maximum of **s 22(1)(a)(ii)** plus GST for eligible Performance Incentive Payments as follows:
 - (a) At the end of the initial term in 30 November 2017, if the Contractor's Overall Rating at each of the three annual Partner Performance Assessments (see Schedule 11) has been, on average, above 4.5, DFAT shall pay the Contractor a Performance Incentive Payment of **s 22(1)(a)(ii)** of the total Management Fees paid to the Contractor during the initial thirty-six (36) month term up to a maximum of **s 22(1)(a)(ii)** and
 - (b) At the end of 31 May 2018, if the Contractor's Overall Rating at the final Partner Performance Assessment (see Schedule 11) is above 4.5, DFAT shall pay the

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Contractor a Performance Incentive Payment of **s 22(1)** if the total Management Fees paid to the Contractor during the six (6) month period to 31 May 2018 up to a maximum of **s 22(1)(a)(ii)**

(a) a Monthly Remuneration Rate inclusive of:
s 22(1)(a)(ii)

4. PERSONNEL FEES

- 4.1 DFAT shall reimburse the Contractor at actual cost for Personnel Fees as outlined in this Clause 4.
- 4.2 Leave accrued by Contractor Personnel during the Project shall be deemed to be taken in the twelve (12) month period it falls due and cannot be accumulated or paid out.
- 4.3 Personnel remuneration Rates are based on a working day of at least eight (8) hours. The Contractor is not entitled to claim for additional Personnel Costs if they work more than eight (8) hours per working day.
- 4.4 The Contractor shall be paid for the lesser of actual number of days/months' work undertaken by its Personnel or the maximum values specified in Annex 1 to this Schedule 2. The Contractor must keep verifiable records to enable verification of actual time spent undertaking the Services.
- 4.5 DFAT shall pay the Contractor for Personnel Fees at the end of each one (1) month period on a reimbursable basis in arrears subject to receipt of a correctly rendered invoice.

Long Term Adviser Costs (ARF)

- 4.6 DFAT shall reimburse the Contractor at actual cost up to a maximum of **s 22(1)(a)(ii)** plus GST for Long-Term Adviser Costs as specified in Table 4 in Annex 1 of this Schedule 2, for the following items:

(a) the Monthly Remuneration Rate in accordance with the Job Level and Professional Discipline Category specified in the position Terms of Reference and calculated in accordance with the Adviser Remuneration Framework. The Monthly Remuneration Rate shall be inclusive of:

s 22(1)(a)(ii)

- (b) Mobility Allowance, if any; and
(c) Special Location Allowance, if any.

Long Term Personnel Costs (non-ARF)

- 4.7 DFAT shall reimburse the Contractor at actual cost up to a maximum of **s 22(1)(a)(ii)** plus GST for Long-Term Locally Engaged Personnel as specified in Table 5 in Annex 1 of this Schedule 2. For each Long-Term Personnel, DFAT shall pay the Contractor the following items:

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Short Term Advisers (ARF)

- 4.8 DFAT shall reimburse the Contractor at actual cost up to a maximum of **s 22(1)(a)(ii)** plus GST for Short Term Advisers as specified in Table 6 in Annex 1 of this Schedule 2. For each Short Term Adviser engaged under the Adviser Remuneration Framework, DFAT shall pay the Contractor the following items:

(a) the Daily Remuneration Rate in accordance with the Job Level and Professional Discipline Category specified in the position Terms of Reference and calculated in accordance with the Adviser Remuneration Framework. The Daily Remuneration Rate shall be inclusive of:

s 22(1)(a)(ii)

- 4.9 Utilisation of Short Term Adviser inputs shall be periodic, when and if needs arise, subject in each case to specific approval by DFAT in writing on a case by case basis. The Contractor shall outline the Short Term Adviser allocation in each Annual Implementation Plan and its utilisation must be approved by DFAT.

5. REIMBURSABLE COSTS

- 5.1 DFAT shall reimburse the Contractor at actual cost for Reimbursable Costs as outlined in this Clause 5.
- 5.2 For each reimbursable cost listed below, DFAT shall pay the Contractor monthly on a reimbursable basis in arrears, and subject to a correctly rendered invoice.
- 5.3 The Contractor must retain all receipts and all relevant documents such as time sheets for audit purposes.
- 5.4 Specified upper limits for each reimbursable component shall not be exceeded without prior written approval from DFAT.
- 5.5 Line item limits: When expenditure reaches **s 22(1)** if the reimbursable line item limit, the Contractor must advise DFAT of the remaining commitments and whether the upper limits are likely to be exceeded, and, if so, provide justification.
- 5.6 Funds may be moved within reimbursable line item limits with written approval from DFAT, provided that the upper limit of reimbursable costs is not exceeded.

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- 5.7 DFAT shall pay the Contractor for Reimbursable Costs at the end of each one (1) month period on a reimbursable basis in arrears subject to receipt of a correctly rendered invoice.

- 5.8 If requested by DFAT, for payment verification purposes, the Contractor shall provide DFAT with appropriate documentation to support all Reimbursable Costs claimed (excluding travelling allowance).

Adviser Support Costs (can apply to both long/short term advisers/personnel)

- 5.9 DFAT shall reimburse the Contractor at actual cost up to a maximum of **s 22(1)(a)(ii)** plus GST for Adviser Support Costs in accordance with the ARF as specified in Table 7 in Annex 1 of this Schedule 2.

- 5.10 The categories of payment for the Adviser Support Costs are as follows:

s 22(1)(a)(ii)

- (a) **Set-Up Costs**, including: capital expenditure (upgrade of property/office outfitting, purchase of vehicles); and procurement and replacement of equipment, furniture, office fixtures and fittings required for operation; and
- (b) **Office Costs** including, but not limited to: lease/office rental; office stationery supplies; recurrent office costs (phone, communications, IT/internet, printers, papers, photocopier and software); advertising and recruitment of personnel as required; utilities; office cleaning services; in-country office insurance; and Project Vehicle operating costs, for example, petrol, repairs and maintenance, as required by the Program;
- (c) **Adviser and Counterpart Travel Costs** including domestic flights and transfers and associated accommodation and per diems for TSSP2 contractor management and staff when away from Port Moresby;
- (d) **Training and Workshop costs** in accordance with Program requirements;
- (e) **General Meetings** including venue hire, food and event costs in accordance with Program requirements; and
- (f) **Other Costs** as agreed by DFAT in writing.

Program Costs

- 5.12 DFAT shall reimburse the Contractor up to a maximum of **s 22(1)(a)(ii)** plus GST for Program Costs as specified in Table 9 in Annex 1 of this Schedule 2, for the following items:

- (a) **Component 1:** Costs related to the delivery and implementation of Component 1, as agreed with DFAT (includes Contractor-managed projects in Manus, on the Ramu Highway, on the Highlands Highway, implementation of recommendations from the evaluation of TSSP by the Office of Development Effectiveness, and other projects as agreed with DFAT. Does not include funding for DoW-managed projects);
- (b) **Component 1 Bougainville:** Costs related to the delivery and implementation of Component 1 in Bougainville, as agreed with DFAT;
- (c) **Component 2:**
- Technical assessment costs of appropriate key safety and security equipment and technologies, as specified at Clause 10.3 (c) of Schedule 1;
 - Systems and process upgrade costs for safety and security purposes, as specified at Clause 10.3 (d) of Schedule 1; and
 - Costs to fund agencies (if required) supported under Component 2, as specified at Clause 10.3 (e) of Schedule 1;
- (d) **Component 3:**
- Impact study costs, as specified at Clause 10.4 (d) of Schedule 1;
 - Data collection in agencies and by the sector as a whole, as specified at Clause 10.4 (d) of Schedule 1;
 - Research and analysis costs, as specified at Clause 10.4 (f) of Schedule 1;

Operational Costs

- 5.11 DFAT shall reimburse the Contractor up to a maximum of **s 22(1)(a)(ii)** plus GST for Operational Costs as specified in Table 8 in Annex 1 of this Schedule 2, for the following items:

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- (iv) Publication (written and electronic) of research findings costs and production of information and advocacy materials, as specified at **Clause 10.4 (f)** of Schedule 1; and
- (v) Costs for provision of TSCMIC meeting venue and facilities;
- (e) Costs associated with delivery, implementation and review of **Agency Support Arrangements** (see Clause 10.5 of Schedule 1);
- (f) **Communication Services**: establishment costs of an effective communications strategy for the sector, as specified at **Clause 10.29 (a)** of Schedule 1, and TSSP2 promotional events, seminars and activities as agreed with DFAT;
- (g) Personnel training/professional development costs, as agreed with DFAT; and
- (h) Other costs associated with delivery of activities as agreed with DFAT in writing prior to the expense.

Assets

5.13 The Contractor must maintain a register of Assets in accordance with **Clause 59.4** of Part 6.

6. IMPREST ACCOUNT

- 6.1 The maximum amount payable for Imprest Account payments by DFAT to the Contractor shall not exceed the sum of **S 22(1)(a)(ii)**.
- 6.2 The Contractor shall take over management of the former TSSP1 Imprest Accounts as per **Clause 6.1** of Schedule 1. The Contractor is to manage the Imprest Account in accordance with **Clause 77** of Part 7 for the primary purpose of:
 - (a) Finalising any outstanding GST payment related issues from the former TSSP1 Imprest Account; and
 - (b) funding the Ramu Highway Scoping and Design Study, and any other activities as directed by DFAT in writing.
- 6.3 Imprest Account Funds shall be paid, expended, managed and accounted for in accordance with **Clause 77** of Part 7.
- 6.4 The Contractor will not be able to use the Accounts to fund any function which falls within this Statement of Requirements. Any resources required to deliver the Services is considered by DFAT to be covered in the existing Management or Reimbursable Fees.

7. CLAIMS FOR PAYMENT

- 7.1 The Contractor's tax invoice must be submitted when due pursuant to this **Schedule 2** in a form identifiable with the Goods and/or Services and in accordance with **Clause 45 (Payment)** in Part 5. Invoices must also reference Payment Event Number(s) as notified by DFAT.
- 7.2 All claims for payment must be made to:
 - Financial Operations Section
 - Department of Foreign Affairs and Trade
 - RG Ossey Building
 - John McEwen Crescent

Barton ACT 0221
AUSTRALIA

- 7.3 Tax invoices should be sent to the above address. Alternatively, DFAT will accept electronic tax invoices. These can be sent to **S 22(1)(a)** (dfat.gov.au) with a copy to DFAT Activity Manager.
- 7.4 Invalid invoices will be returned the Contractor. Information on what constitutes a valid tax invoice can be found at <https://www.ato.gov.au/business/gst/issuing-tax-invoices>.

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s 22(1)(a)(ii)

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s 22(1)(a)(ii)

Attachment B: Schedule 11 – Partner Performance Assessment

Partner Performance Assessment (PPA)

DFAT will Partner Performance Assessments (PPAs) to assess how well implementing partners are delivering the services required in our agreements. PPA's are integral DFAT documents. But don't fret! PPA's are used to inform future performance evaluations, not to judge. Under Evaluation Governance, partner performance monitoring, and more importantly, the majority of organisations' PPA's should be completed by agreement managers and be based on the most recent 12 month period where performance information is available. The partner should be asked to complete a performance declaration in relation to a 12-month agreement. It is a priority to complete a PPA for all agreements in ANZ, commercial sectors and multiple organisations with a total value over \$5 million, and for all DFAT operations in regional organisations. A proportional approach to completing the PPA should be adopted depending on the size and risk of the agreement. For agreements below \$5 million and DFAT offices, reporting that is only required if an assessment is being completed. For agreements with a value greater than \$5 million, PPA's inform future funding decisions. Delivery partners must be given an opportunity to review the assessment. Delivery partners should be provided with a written or 15-minute oral feedback for ratings. PPA's must be approved by a DFAT office or DFAT and submitted into Australia by 28th July 2025. The DFAT PPA form can be directly uploaded into Workday. For further information, refer to the DFAT PPA page here. If you have any questions, please contact the relevant partner area. For DFAT contact, please email agreements@dfat.gov.au. For multi-level organisations contact agreements@dfat.gov.au. For commercial sectors contact contract_performance@dfat.gov.au.

Summary

Table with 4 columns: Agreement Name, Partner's Name, Agreement Start Date, Reporting period start date, Total Value, Report created by, Approved by, Partner Type, Agreement Type, Agreement Number, Agreement Number, End Date of Agreement, Reporting period end date, Country/Region, Sector, Date approved, Date Approved.

Australian Aid – Rated Performance Criteria

Rate each statement using the following six point scale as a guide

Table with 2 columns: Satisfactory, Less than satisfactory. Rows 1-4 with descriptions of performance levels. Row 5: Deliver Lasting Results and Impact - At the delivery partner achieving agreed objectives and results and promoting sustainability. Sub-rows a-f with 6-point scales.

Assessment (no more than 300 words)

For agreements above \$10 million. It is mandatory to provide evidence to support the rating given. This should include any identified areas for improvement.

Table with 2 columns: Statement, Rating (1-5). Rows 1-4 regarding VFM, budget, and implementation.

Assessment (no more than 300 words)

For agreements above \$5 million. It is mandatory to provide evidence to support the rating given. This should include any identified areas for improvement.

Table with 2 columns: Statement, Rating (1-5). Rows 1-2 regarding collaboration and communication.

Assessment (no more than 300 words)

For agreements above \$10 million. It is mandatory to provide evidence to support the rating given. This should include any identified areas for improvement.

Table with 2 columns: Statement, Rating (1-5). Rows 1-4 regarding alignment, risk management, and innovation.

Assessment (no more than 300 words)

For agreements above \$5 million. It is mandatory to provide evidence to support the rating given. This should include any identified areas for improvement.

Table with 2 columns: Statement, Rating (1-5). Row 1 regarding effective personnel.

Table with 2 columns: Statement, Rating (1-5). Rows 1-2 regarding reporting and management of staff.

Assessment (no more than 300 words)

For agreements above \$10 million. It is mandatory to provide evidence to support the rating given. This should include any identified areas for improvement.

Table with 2 columns: Statement, Rating (1-5). Rows 1-4 regarding other agreement specific measures.

Assessment (no more than 300 words)

For agreements above \$10 million. It is mandatory to provide evidence to support the rating given. This should include any identified areas for improvement.

Table with 2 columns: Statement, Rating (1-5). Row 1 regarding general comments.

Partner Approval/Signature

Form for Partner Approval/Signature with fields for Name, Position, Date, and OR.

Form for DFAT Approval/Signature with fields for Name, Position, Date.

Attachment C: Schedule 12 – Adviser Performance Assessment

NOTES FOR COMPLETING:

1. This form is to be used by DFAT and/or its implementing Partners for assessing Adviser performance.
2. An Adviser Performance Assessment (APA) is undertaken on completion of an adviser contract, or annually for engagements longer than one year in duration.
3. DFAT or the relevant MC may seek the views of Partner Government officials involved in the activity when completing the APA.
4. Where underperformance is identified in an APA, practical steps to rectify the performance issues must be put in place. Where underperformance is not sufficiently rectified, there must be practical consequences.
5. In all cases, Advisers must be given 15 working days to review and sign the APA.
6. Completed APAs must be emailed to contractor.performance@dfat.gov.au

NOTES FOR ADVISERS:

1. Advisers are required to sign completed APAs within 15 working days of receipt.
2. Advisers may include a written response with the APA to address any issues raised.
3. Responses must be returned to the party conducting the APA (ie. DFAT or Managing Contractor).
4. Failure to respond within 15 working days of receipt is deemed as acceptance of the APA.
5. Completed APAs are placed on DFAT's performance register and remain valid for five (5) years.
6. APAs, including written responses from Advisers, can be used by DFAT as part of a future adviser selection process.
7. APAs may be provided by DFAT to other Partner (Government, Multilateral etc.) procurement processes which involve DFAT funds.

Summary

Adviser Name	Adviser Name	Agreement Name	Agreement Name
Managing Contractor	Name of Commercial Partner	Agreement Number	Agreement Number
Agreement Start Date	Start Date of Agreement	Agreement End Date	End Date of Agreement
Reporting period start date	Start Date of the Reporting Period covered in this APA	Reporting period end date	End Date of the Reporting Period covered in this APA
Total Value	\$ U.S.D.	Country/Region	Country - Region State
Report drafted by	Name	ARF Classification	Professional Discipline/Job Category
Approved by	Counsellor / Director Name	Date approved	Date Approved

Australian Aid - Rated Performance Criteria

Rate each statement using the following six point scale as a guide:

Satisfactory	Less than satisfactory
6 Very good; satisfies criteria in all or almost all areas	3 Less than adequate; on balance does not satisfy criteria but does not fail in any major area
5 Good; satisfies criteria in most areas	2 Poor; does not satisfy criteria in major areas
4 Adequate; on balance satisfies criteria, does not fail in any major area	1 Very poor; does not satisfy criteria in many major areas

1) Deliver Lasting Results and Impact – Is the adviser achieving the agreed deliverables?

a) Achieves results and delivers on time; ensuring deliverables are of high quality, accurate and meet the defined requirements.	1	2	3	4	5	6
b) Progress in capacity building and knowledge transfer to key counterpart(s) as per the defined requirements	1	2	3	4	5	6
c) Demonstrates effective leadership and management, as per the defined requirements	1	2	3	4	5	6

Supporting evidence is required if a rating of 3 or below or 6 is given (no more than 300 words)

2) Demonstrated effective, ethical, efficient and economical use of resources – Does the adviser demonstrate Value for Money principles in their approach to the defined requirements?

a) Delivers defined services within budget	1	2	3	4	5	6
b) Applies lessons learnt to enhance value for money	1	2	3	4	5	6

Supporting evidence is required if a rating of 3 or below or 6 is given (no more than 300 words)

3) Collaboration, Communication and Responsiveness – Does the adviser work collaboratively, communicate effectively with stakeholders and respond effectively to emerging issues?

a) Demonstrates professional conduct and cultural sensitivity by communicating effectively, working collaboratively and building effective relationships.	1	2	3	4	5	6
b) Demonstrates appropriate flexibility and responsiveness to DFAT (as per its implementing partner) and the Partner Government's requests.	1	2	3	4	5	6
c) Addresses problems/issues openly and constructively.	1	2	3	4	5	6

Supporting evidence is required if a rating of 3 or below or 6 is given (no more than 300 words)

4) Risk Management – Does the adviser effectively manage risk and operate in a manner consistent with DFAT policies?

a) Effectively manages risks and informs DFAT of any risks or issues that may adversely affect timing, cost or quality of services.	1	2	3	4	5	6
b) Takes appropriate account of DFAT policies including on Child protection, Environmental and Resettlement safeguards, Gender Equality and Disability Inclusive Development.	1	2	3	4	5	6

Supporting evidence is required if a rating of 3 or below or 6 is given (no more than 300 words)

5) Other Contract Specific Measurable(s)

(Add as required)	1	2	3	4	5	6
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Supporting evidence is required if a rating of 3 or below or 6 is given (no more than 300 words)

DFAT Representative	DFAT Partner Representative	Adviser
Name:	Name:	Name:
Signature:	Signature:	Signature:
Date:	Date:	Date: