Department of Foreign Affairs and Trade

Complex Grant Agreement number [insert AidWorks agreement number]

Commonwealth of Australia represented by the Department of Foreign Affairs and Trade (**DFAT**)

and

[insert Recipient's name] (**Recipient**)

For

Pacific Media Assistance Scheme 5

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Details

Parties

Name	The Commonwealth of Australia represented by the Department of Foreign Affairs and Trade ABN 47 065 634 525
Short form name	**DFAT**
Name	[insert full legal name of Recipient, ABN and ACN or other identifying registration numbers if the Recipient is based overseas]
Short form name	**Recipient**

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Background

A DFAT provides grant funding to support activities for overseas development assistance.

B The Recipient applied for grant funding to perform the Activity.

C DFAT is required by law to ensure accountability for the grant funding and accordingly the Recipient is required to be accountable for all grant funding received.

D DFAT has agreed to provide an amount of grant funding to the Recipient for the purposes of the Activity, subject to the terms and conditions of this Agreement.

E The Recipient accepts the grant funding for the purposes of the Activity, and subject to the terms and conditions of this Agreement.

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Signing page

EXECUTED as a deed.

Signed, sealed and delivered for and on behalf of the Commonwealth of Australia represented by the Department of Foreign Affairs and Trade by its duly authorised delegate in the presence of

Signature of witness

Name of witness (print)

Signature of delegate

Name of delegate (print)

Date

Position of delegate and section (print)

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[Option 1:

Unless Option 2 signature block below applies (see guidance below for Option 2), insert this signature block.

Highlight and delete this box before distribution of this Agreement]

The common seal of [insert name of Recipient] is fixed to this document in accordance with its constitution and section 127 of the *Corporations Act 2001* (Cth)in the presence of

Signature of director

Signature of director/company secretary
(Please delete as applicable)

Name of director (print)

Name of director/company secretary (print)

Date

[Option 2:

Insert this signature block for a company registered under the *Australian Corporations Act 2001* (Cth)
[for example an Australian company]

Highlight and delete this box before distribution of this Agreement]

Signed, sealed and delivered by [insert name of Recipient] in accordance with section 127 of the *Corporations Act 2001* (Cth)

Signature of director

Signature of director/company secretary/sole director and sole company secretary
(Please delete as applicable)

Name of director (print)

Name of director/company secretary/sole director and sole company secretary (print)

Date

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Part A - Agreement details

Table 1 - Agreement Details

Item number	Description	Clause reference (Part B – General Conditions)	Details
1.	DFAT	1.1	Commonwealth of Australia as represented by the Department of Foreign Affairs and Trade ABN 47 065 634 525 Department of Foreign Affairs and Trade – Australian Aid Program R.G. Casey Building John McEwen Crescent Barton ACT 0221 Australia
2.	Recipient	1.1	[insert name of Recipient] [insert street address] [insert ACN if applicable] [insert ABN or other identifying registration numbers if the Recipient is based overseas]
3.	DFAT Representative	1.1	[insert position and/or name of DFAT's representative]
4.	Recipient Representative	1.1 and 14.1	[insert position and/or name of Recipient's representative]
5.	Total Funds	1.1	[insert amount of funds payable under this agreement – this amount is inclusive of all costs payable under this agreement including Australian GST and any other applicable taxes]
6.	Commencement Date	1.1 and 3.1	The date this Agreement is signed by the last Party.
7.	Activity Start Date	1.1 and 4.1	1 January 2027
8.	Activity End Date	1.1 and 4.1	31 October 2031
9.	Agreement End Date	1.1	31 December 2031

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Item number	Description	Clause reference (Part B – General Conditions)	Details
10.	Option Period(s)	1.1 and 3.2	One Option Period for up to five years, ending 31 December 2036.
11.	DFAT Material	1.1	Nil provided
12.	Moral Rights – Specified Acts	1.1 and 18	Nil specified
13.	Insurance	1.1 and 27	General liability insurance in the aggregate to the value of $20,000,000.00. Professional Indemnity insurance in the aggregate to the value of $20,000,000.00 Appropriate workers compensation insurance as required by law.
14.	Address for Notices	1.1 and 39	DFAT: [Insert name and position of person to receive notices] Postal address: Department of Foreign Affairs and Trade – Australian Aid Program R.G. Casey Building John McEwen Crescent Barton ACT 0221 Australia Physical address: 255 London Circuit CANBERRA ACT 2601 AUSTRALIA Email: [Insert email address for receipt of notices]
15.	Special Conditions		Nil

Table 2 - Payment Criteria

Subject to this Agreement, DFAT will pay the grant funding to the Recipient in instalments as set out in the table below.

STAGE 1: DESIGN

Tranche No.	Payment Criteria	Payment Due Date	Tranche amount
1.	• Receipt and acceptance of Milestone 1 Note: no instalment will be paid if the Payment Criteria is not satisfied.	[Insert date of payment]	[Insert Tranche value]
2.	• Receipt and acceptance of Milestone 2	[Insert date of payment]	[Insert Tranche value]

STAGE 2: IMPLEMENTATION

Tranche No.	Payment Criteria	Payment Due Date	Tranche amount
3.	• Receipt and acceptance of Milestone 3	[Insert date of payment]	[Insert Tranche value]
4.	• Receipt and acceptance of Milestone 4	[Insert date of payment]	[Insert Tranche value]
5.	• Receipt and acceptance of Milestone 5	[Insert date of payment]	[Insert Tranche value]
6.	• Receipt and acceptance of Milestone 6	[Insert date of payment]	[Insert Tranche value]
7.	• Receipt and acceptance of Milestone 7	[Insert date of payment]	[Insert Tranche value]

Total [Insert total value of tranches. Must equal the value of the Total Funds]

Table 3 - Milestones

As specified in Part C – Activity Proposal, the following will be milestones for this agreement:

STAGE 1: DESIGN

No.	Milestone Description	Milestone Completion Indicators	Due Date
1.	Investment Concept	a. Partner-led design – Investment Concept approved by DFAT in writing.	[Insert date the milestone is due]

No.	Milestone Description	Milestone Completion Indicators	Due Date
		b. Grant Agreement signed by both parties	
2.	Investment Design	Investment Design Summary, approved by DFAT in writing.	[Insert date the milestone is due]

STAGE 2: IMPLEMENTATION

No.	Milestone Description	Milestone Completion Indicators	Due Date
3.	Investment Concept	c. Partner-led design – Investment Concept approved by DFAT in writing. d. Grant Agreement signed by both parties	[Insert date the milestone is due]
4.	Annual Report (1 July 2026 – 30 June 2027) Audited Financial Statement (1 July 2026 – 30 June 2027)	Annual Report and Audited Financial Statement, approved by DFAT in writing.	[Insert date the milestone is due]
5.	Annual Report (1 July 2027 – 30 June 2028) Audited Financial Statement (1 July 2027 – 30 June 2028)	Annual Report and Audited Financial Statement, approved by DFAT in writing.	[Insert date the milestone is due]
6.	Annual Report (1 July 2028 – 30 June 2029) Audited Financial Statement (1 July 2028 – 30 June 2029)	Annual Report and Audited Financial Statement, approved by DFAT in writing.	[Insert date the milestone is due]
7.	Final Report (1 July 2029 – 20 June 2030) Final Audited Financial Statement (1 July 2029 – 20 June 2030)	Final Report and Final Audited Financial Statement, approved by DFAT in writing.	[By the date that is 60 days after the completion of the Activity in accordance with this Agreement.]

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Part B - General Conditions

Interpretation

1. Definitions and interpretation

1.1 Defined terms

In this Agreement, except where the contrary intention is expressed, the following definitions are used:

Term	Definition
Abandoned	not having carried on any work or activities on the Activity for sixty (60) consecutive days, except where relieved of the obligation to do so under this Agreement. Abandon has a corresponding meaning.
Activity	the Activity described in Part C (Activity Proposal).
Activity End Date	the date specified in Item 8 of Part A (Agreement Details).
Activity Event	any promotional event conducted by the Recipient relating to the Activity, including the award of grant funding, the attainment of a Milestone or launch of the completed Activity.
Activity Proposal	as described in Part C (Activity Proposal).
Activity Start Date	the date specified in Item 7 of Part A (Agreement Details).
Agreement	this Agreement, which is a Deed between DFAT and the Recipient, as varied from time to time in accordance with Clause 40.3 (Variation), including all parts and any attachments.
Agreement End Date	the date on which this Agreement ends, as specified in Item 9, including any extensions or Option Periods.
Agreement Material	any Material created by, for or on behalf of the Recipient on or following the Commencement Date, for the purpose of or as a result of performing its obligations under this Agreement including any modifications that may be required under Clause 23.2(b) (Access by DFAT).
Agreement Period	the period from the Commencement Date to the Agreement End Date.
AI System	the machine-based system that, for explicit or implicit objectives, infers, from the input it receives, how to generate outputs such as predictions, content, recommendations, or decisions that can influence physical or virtual environments. Different AI Systems vary in their levels of autonomy and adaptiveness after deployment**.**
Applicable Auditing Procedures	the internal and external auditing procedures in the rules and regulations applicable to the Recipient.
Application	the application submitted by, for or on behalf of the Recipient for grant funding in relation to the Activity.

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Term	Definition
Assets	(a) any items of tangible property which are purchased, leased, created or otherwise brought into existence by, for or on behalf of the Recipient either wholly or in part with use of the Funds, not including Agreement Material as set out in Clause 13 (Assets); and (b) approved identified items in Part C (Activity Proposal).
Asset Register	the register of Assets set out in Clause 13.3 (Asset Register).
Asset Threshold	means the amount set out in Clause 13.2 (Asset Threshold).
Authority	any Commonwealth, State, Territory, local or foreign government or semi-governmental authority, court, administrative or other judicial body or tribunal, department, commission, public authority, agency, minister, statutory corporation or instrumentality, including the Partner Government.
Banned IP System	the meaning given in clause 19.10 of this Agreement.
Budget	the Budget set out in the Activity Proposal at Part C (Activity Proposal), as varied from time to time in accordance with this Agreement.
Business Day	a day that is a working day in the place where the act is to be performed or where the Notice is received.
Change in Control	in relation to an entity, a change in the direct or indirect power or capacity of a person to: (a) determine the outcome of decisions about the financial and operating policies of the entity; or (b) control the membership of the board of directors of the entity, whether or not the power has statutory, legal or equitable force or is based on statutory, legal or equitable rights and whether or not it arises by means of trusts, agreements, arrangements, understandings, practices, the ownership of any interest in shares or stock of the entity or otherwise, not including a change in control resulting from ordinary course trading on a stock exchange in the shares of the entity.
Commencement Date	the date specified in Item 6 of Part A (Agreement Details).
Commonwealth	the Commonwealth of Australia.
Confidential Information	information that is by its nature confidential and: (a) is designated by a Party as confidential; or (b) a Party knows or ought to know is confidential, but does not include information which is or becomes public knowledge other than by breach of this Agreement or any other confidentiality obligation.

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Term	Definition
Criminal Code Act List	the lists of organisations that are specified as a "terrorist organisation" or a "state sponsor of terrorism" by regulations made under the *Criminal Code Act* 1995.
DFAT	the Party specified in Item 1 of Part A (Agreement Details).
DFAT Material	any Material provided to the Recipient by DFAT, including the Material (if any) specified in Item 11 of Part A (Agreement Details).
DFAT Data	means any data and information relating to or concerning DFAT, and its operations, facilities, customers, DFAT Personnel, assets and programs (including Personal Information) in whatever form that information may exist and whether entered into, stored in, generated by or processed through software or equipment by or on behalf of DFAT.
DFAT Representative	the person identified in Item 3 of Part A (Agreement Details).
Depreciation	depreciation calculated for income tax purposes under, and in accordance with, the *Income Tax Assessment Act 1997* (Cth).
Force Majeure Event	has the meaning given in Clause 35.1 (Occurrence of Force Majeure Event).
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 Activity.
Fraudulent Activity, Fraud or Fraudulent	dishonestly obtaining a benefit, or causing a loss, by deception or other means, and includes incidents of attempted, alleged, suspected or detected fraud. Fraud also includes conduct or practice that could contravene the Australian offence of bribing a foreign public official, and includes the making of a facilitation payment as set out in the *Criminal Code Act 1995* (Cth).
Funds	the grant funding paid by DFAT to the Recipient under this Agreement and any interest earned by, for or on behalf of the Recipient on that grant funding, proceeds from the disposal or write-off of any Asset and any exchange rate gains made on that grant funding by the Recipient.
General Conditions	Clauses 1 to 39 of this Agreement.
Independent Auditor	a person who is: (a) a certified financial professional registered under the *Corporations Act 2001* (Cth); or (b) an appropriately qualified member of the Institute of Chartered Accountants in Australia, of CPA Australia, of the Australian National Institute of Accountants or of an equivalent recognised foreign institution; and (c) is in no way linked or associated with the Project/Program or the Parties.

Term	Definition
Information Security Manual	means section 13.1 of the Protective Security Policy Framework.
Insolvency Event	in relation to an entity: (a) the entity disposes of the whole or any part of its assets, operations or business other than in the ordinary course of business; (b) the entity ceases to carry on business; (c) the entity ceases to be able to pay its debts as they become due; (d) proceedings are initiated with a view to obtaining an order for the winding up of the entity, or any person convenes a meeting for the purpose of considering or passing any resolution for the winding up of the entity; (e) the entity applies to come under, the entity receives a notice requiring it to show cause why it should not come under, an order has been made for the purpose of placing the entity under, or the entity otherwise comes under one of the forms of external administration referred to in Chapter 5 of the *Corporations Act 2001* (Cth) or Chapter 11 of the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth) or equivalent provisions in State or Territory legislation or the laws of the Partner Country in relation to incorporated entities; (f) where the entity is a natural person, the entity is declared bankrupt or assigns his or her estate for the benefit of creditors; (g) where the entity is a partnership, any step is taken to dissolve that partnership; or (h) anything analogous to an event referred to in paragraph (d), (e), (f) or (g) occurs in relation to the entity.
Intellectual Property Rights	all intellectual property rights, including: (a) copyright, patents, trade marks (including goodwill in those marks), designs, trade secrets, know how, rights in circuit layouts, domain names and any right to have confidential information kept confidential; (b) any application or right to apply for registration of any of the rights referred to in paragraph (a); and (c) all rights of a similar nature to any of the rights in paragraphs (a) and (b) which may subsist in Australia or elsewhere, whether or not such rights are registered or capable of being registered.

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Term	Definition
Law	any applicable statute, regulation, by-law, ordinance or subordinate legislation in force from time to time in: (a) Australia, whether made by a State, Territory, the Commonwealth, or a local government; and (b) the Partner Country.
Material	includes property, equipment, information, data, documentation or other material in whatever form, including any software, reports, specifications, business rules or requirements, user manuals, user guides, operations manuals, training materials and instructions, and the subject matter of any category of Intellectual Property Rights.
Milestone	a milestone set out in Table 3 (Milestones) of Part A (Agreement Details).
Modify	to add to, enhance, reduce, change, replace, vary or improve. Modification and Modified have corresponding meanings.
Moral Rights	the right of integrity of authorship (that is, not to have a work subjected to derogatory treatment), the right of attribution of authorship of a work, and the right not to have authorship of a work falsely attributed, as defined in the *Copyright Act 1968* (Cth).
Notice	a notice, demand, consent, approval or communication issued under this Agreement.
Official Information	means information of any kind whatsoever, whether in material form or not, regardless of its security classification, developed, received or collected, by or on behalf of the Commonwealth or which the Commonwealth has agreed to protect to which the Recipient gains access and includes any Material contained in an AI System and the terms of this Agreement. For avoidance of doubt, Official Information includes DFAT Confidential Information, DFAT Material and DFAT Data.
Option Period	means the period or periods that the Agreement may be extended by DFAT as set out in Item 10 of Part A (Agreement Details).
Outcomes	the outcomes for the Activity, as set out in Part C (Activity Proposal).
Partner Country	the country or countries in which the Activity is to be undertaken in whole or in part.
Partner Government	the government of the Partner Country.
Party	DFAT and the Recipient who are listed in the Details section of this Agreement. Parties have a corresponding meaning.
Payment Claim	has the meaning given in Clause 9(a) (Invoicing Requirements).
Payment Criteria	the payment criteria specified in Table 2 of Part A (Agreement Details).
Personal Information	has the same meaning as in the Privacy Act 1988 (Cth).

Term	Definition
Personnel	in relation to a Party, any employee, officer, agent, volunteer, Subcontractor or professional adviser of that Party.
Pre-existing Recipient Material	Material developed by the Recipient 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 Agreement; and (b) is embodied in or attached to the Agreement Material, or otherwise necessarily related to the performance of the Activity.
Protective Security Policy Framework	means the Australian Government policy standard that sets out how government entities protect their people, information, and resources, as updated from time to time, available here: https://www.protectivesecurity.gov.au/pspf-annual-release
Recipient	the Party specified in Item 2 of Part A (Agreement Details).
Recipient Representative	the person identified in Item 4 of Part A (Agreement Details).
Related Agreement	any other agreement between the Parties under which DFAT provides grant funding to the Recipient, whether entered into before or after this Agreement.
Reports	the reports to be provided under Clause 15 (Reporting).
Sanctions List	the list of individuals, entities or organisations designated or listed by the United Nations Security Council, its committees or the Australian Government for targeted financial sanctions or similar measures (this list is currently available at http://dfat.gov.au/international-relations/security/sanctions/pages/consolidated-list.aspx).
Security Classified Information	Means information that has been designated or marked with a national security classification by the Commonwealth in accordance with the Australian Government Protective Security Policy Framework, Information Security Manual, or DFAT's security policies and procedures, and must be protected accordingly.
Special Conditions	the terms and conditions (if any) set out in Item 15 of Part A (Agreement Details).
Subcontractor	any third party engaged by the Recipient through a contract for goods or services to perform part of the Activity.
Third Party Material	any Material made available by the Recipient for the purpose of the Agreement Material or the Activity in which a third party holds Intellectual Property Rights.
Total Funds	the amount specified in Item 5 of Part A (Agreement Details), as reduced in accordance with this Agreement.

Term	Definition
Warranted Materials	(a) Pre-existing Recipient Material; (b) Third Party Material; and (c) Agreement Material.
World Bank List	the list of organisations maintained by the World Bank in its "Listing of Ineligible Firms and Individuals" of firms and individuals who are ineligible to be awarded a World Bank-financed contract because they have been sanctioned under the Bank's fraud and corruption policy (this list is currently available at http://web.worldbank.org/external/default/main?theSitePK=84266&contentMDK=64069844&menuPK=116730&pagePK=64148989&piPK=64148984).

1.2 Interpretation

In this Agreement, except where the contrary intention is expressed:

(a) the singular includes the plural and vice versa, and a gender includes other genders;

(b) another grammatical form of a defined word or expression has a corresponding meaning;

(c) a reference to a clause, paragraph or part is to a clause or paragraph of, or part to, this Agreement;

(d) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;

(e) a reference to AUD, A$, $A, dollar or $ is to Australian currency;

(f) a reference to time is to Canberra, Australia time;

(g) a reference to a Party is to a Party to this Agreement, and a reference to a party to a document includes the party's executors, administrators, successors and permitted assignees and substitutes;

(h) a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;

(i) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;

(j) the meaning of general words is not limited by specific examples introduced by including, for example or similar expressions;

(k) a rule of construction does not apply to the disadvantage of a Party because the Party was responsible for the preparation of this Agreement or any part of it;

(l) if the last day on or by which an obligation must be performed or an event must occur is not a Business Day, the obligation must be performed, or the event must occur on or by the next Business Day; and

(m) headings are for ease of reference only and do not affect interpretation.

2. Priority of documents

2.1 If there is any inconsistency between any of the documents forming part of this Agreement, those documents will be interpreted in the following order of priority to the extent of the inconsistency:

(a) Part A – Agreement Details;

(b) Part B – General Conditions;

(c) Part C – Activity Proposal;

(d) any attachments to Activity Proposal; and

(e) documents incorporated by reference in this Agreement.

3. Duration of Agreement

3.1 This Agreement begins on the Commencement Date and continues until the end of the Agreement Period unless terminated in accordance with Clause 37 (Termination) or Clause 35.4 (Force Majeure Events) or extended in accordance with this clause 3.

3.2 DFAT may, at its sole discretion, extend the Agreement Period of this Agreement for any one or more Option Periods by providing Notice to the Recipient, provided that:

(a) the aggregate period of all such Option Periods does not exceed any maximum period specified in Item 10 of the Agreement Details; and

(b) DFAT gives Notice in writing to the Recipient prior to the end of the Agreement End Date.

Activity

4. Activity

4.1 Undertaking the Activity

(a) The Recipient must:

(i) undertake the Activity in accordance with the Activity Proposal and the terms and conditions of this Agreement to achieve the Outcomes;

(ii) undertake the Activity diligently, effectively, safely and to a professional standard;

(iii) comply with all Laws applicable to the performance of this Agreement, including as set out in Clause 31 (Compliance with Laws and Policies);

(iv) take responsibility for the security of all of its Personnel and for taking-out and maintaining appropriate insurances applicable to the performance of this Agreement;

(v) not, by act or omission, place DFAT in breach of its obligations under the *Work Health and Safety Act 2011* (Cth); and

(vi) not engage a Former DFAT Employee in any capacity in connection with the Activity unless DFAT has approved the engagement.

(b) The Recipient must make reasonable efforts to:

(i) ensure that in its performance of the Activity, all of its Personnel, while in the Partner Country, respect and comply with the Laws and regulations applicable to the performance of this Agreement in force in the Partner Country;

(ii) meet the completion dates for the Milestones, as specified in Part A (Agreement Details) - Table 3 (Milestones);

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(iii) start the Activity by the Activity Start Date and complete the Activity by the Activity End Date; and

(iv) ensure that any statement or information given or made to DFAT by the Recipient from time to time under this Agreement (including information or statements contained in any Report) is true and correct.

(c) The Recipient must advise DFAT immediately in writing of any anticipated or actual difficulties or delays in the implementation of the Activity.

4.2 Stages of the Activity

(a) The Recipient must undertake the Activity in two stages:

(i) Stage 1: Design; and

(ii) Stage 2: Implementation,

as described by Part A (Agreement Details) - Table 3 (Milestones).

(b) The Recipient must not commence Stage 2: Implementation, or incur or commit any expenditure for Stage 2: Implementation, unless DFAT gives the Recipient Notice authorising it to do so.

(c) DFAT may, acting reasonably and at its sole discretion, in relation to any authorisation under Clause 4.2(b):

(i) give or withhold the authorisation;

(ii) give the authorisation subject to any conditions;

(iii) vary, revoke or impose additional conditions on any authorisation previously given; and

(iv) give any other direction it considers appropriate in connection with the authorisation or the subject matter of Clause 4.2(b).

(d) Without limiting clause 4.2(c), the matters in paragraphs (i) and (ii) below are conditions precedent to, but do not require, DFAT giving an authorisation under Clause 4.2(b):

(i) the Recipient has achieved Milestones 1 and 2 specified in Part A (Agreement Details) - Table 3 (Milestones); and

(ii) sufficient grant funding is available to DFAT.

4.3 Warranties

The Recipient represents and warrants that:

(a) it has the legal right and power to enter into, perform and observe its obligations under this Agreement;

(b) the execution, delivery and performance of this Agreement has been duly and validly authorised by the Recipient;

(c) the statements and information in its Application are accurate and complete;

(d) it and its Personnel have the necessary experience, skill, knowledge, expertise and competence to undertake the Activity and (where appropriate) will hold such licences, permits or registrations as are required under any Law to undertake the Activity, and are fit and proper people to be involved in an activity, which is funded by the Australian Government;

(e) it is not subject to any judicial decision against it relating to employee entitlements (not including decisions under appeal) where it has not paid the claim;

(f) it is not named as not complying with the *Workplace Gender Equality Act 2012* (Cth); and

(g) if the Recipient is a trustee, it enters this Agreement personally and in its capacity as trustee and has the power to perform its obligations under this Agreement.

5. Variation to the Activity

(a) If the Recipient wants to seek a variation to the Activity or change an intended Outcome, the Recipient must submit a notice to DFAT in writing setting out:

(i) details of the proposed variation to the Activity or change in an intended Outcome and justification for the request;

(ii) the impact the proposed variation will have on:

(A) effective delivery of the Activity;

(B) the Budget; and

(C) the Milestones.

(b) DFAT will give the Recipient a written notice accepting or rejecting the Recipient's request.

(c) Notwithstanding DFAT's acceptance of a proposed variation, the proposed variation will not vary this Agreement or be binding unless and until a variation to this Agreement is made in accordance with Clause 40.3 (Variation).

Funds

6. Use of Funds by Recipient

6.1 What Funds can be used for

(a) The Recipient must spend the Funds only for the purposes of undertaking the Activity and purposes that are incidental to the Activity, including for the independent audit of acquittal reports as set out in Clause 15 (Reporting).

(b) The Recipient must spend the Funds only in accordance with the Budget.

(c) Any increase or decrease in the amount allocated to an item of expenditure in the Budget cannot be made without DFAT's prior written approval.

6.2 When Funds cannot be used

(a) Without limiting any other right or remedy of DFAT, DFAT may by written notice direct the Recipient not to spend Funds if the Recipient has not achieved a Milestone that was due to be achieved before the date of notification, or the Recipient is otherwise in breach of this Agreement.

(b) The Recipient must not spend any Funds that it has not already legally committed for expenditure after it receives notice from DFAT under Clause 6.2(a) (When Funds cannot be used) unless and until DFAT notifies the Recipient otherwise.

6.3 Bank account

The Recipient must:

(a) ensure that Funds are held in an account:

(i) in the Recipient's name;

(ii) held at an institution regulated by the *Banking Act 1959* (Cth) or a reputable banking institution approved or regulated by the relevant banking authority or regulator in the jurisdiction in which the Activity is performed;

(iii) which the Recipient solely controls; and

(iv) that bears a rate of interest consistent with the interest rate of Australia as issued by the Reserve Bank of Australia or the equivalent rate set by the Reserve Bank of the Partner Country;

(b) identify the receipt and expenditure of the Funds separately within the Recipient's accounting records so that at all times the Funds are identifiable, traceable and ascertainable;

(c) unless the Recipient is a sole director company, ensure that two signatories, who have the Recipient's authority to do so, are required to operate the account;

(d) notify DFAT, prior to the receipt of any Funds, of details sufficient to identify the account;

(e) on notification from DFAT, provide DFAT and the institution that provides the account with an authority for DFAT to obtain any details relating to the use of the account; and

(f) if the account changes, notify DFAT within 14 days after the change occurring, providing DFAT with details of the new account, and comply with Clause 6.3(a) to 6.3(e) (Bank Account) in respect of the new account.

7. Payment of Funds by DFAT

7.1 Payment

(a) Subject to this Agreement (including satisfaction of the Payment Criteria) and sufficient grant funding being available to DFAT, DFAT will provide grant funding to the Recipient.

(b) DFAT's liability under this Agreement is limited to:

(i) the Total Funds (Item 5 of Part A (Agreement Details)); or

(ii) the amount of grant funding paid under this Agreement (and any amount of grant funding for which DFAT is liable under Clause 36.5(a) (Effective on Receipt) or Clause 37.1(c)(i) and (ii)),

whichever is the lesser.

7.2 Payment of Funds for Stage 2

(a) For the avoidance of doubt and without limiting Clause 7.1(a) (Payment), DFAT is not obliged to pay any instalment of grant funding for Stage 2: Implementation unless DFAT has given the Recipient Notice under Clause 4.2(b) (Stages of the Activity) authorising the Recipient to commence Stage 2: Implementation.

7.3 Suspension

(a) Without limiting any other right or remedy of DFAT, DFAT may suspend payment of grant funding under this Agreement in whole or in part:

(i) if the Recipient has not provided a Report due to be provided before the date for payment, until the Report is provided;

(ii) if a Report provided by the Recipient is not acceptable to DFAT, until a replacement Report that is acceptable to DFAT is provided;

(iii) if the Recipient has not achieved a Milestone that was due to be achieved before the date for payment, until the Milestone is achieved;

(iv) if the Recipient has not otherwise undertaken a Milestone or the Activity to the satisfaction of DFAT, until the Recipient remedies its performance;

(v) if the Recipient has not spent Funds in accordance with the Agreement, until the Recipient has done so;

(vi) if the Recipient has not satisfied the Payment Criteria; or

(vii) if the Recipient is in breach of this Agreement or a Related Agreement, until that breach is remedied.

(b) Despite any suspension, the Recipient must continue to perform its obligations under this Agreement, unless otherwise agreed to in writing by the Parties.

7.4 Reduction

Without limiting any other right or remedy of DFAT, DFAT may reduce the amount of any instalment of grant funding under this Agreement:

(a) if by the date for payment of the instalment the Recipient has not spent Funds in accordance with the Payment Criteria, by the amount that has not been spent; or

(b) if Funds have been spent other than in accordance with this Agreement, by the amount that was spent other than in accordance with this Agreement.

7.5 Due date for payment

Subject to this Clause 7 (Payment of Funds by DFAT) and DFAT being satisfied with:

(a) the Recipient's performance of the Activity; and

(b) the achievement of the Payment Criteria,

DFAT must make payment within 30 days of receiving a correctly rendered invoice.

7.6 Incorrect invoices, under/over payment

If an invoice is found to have been rendered incorrectly after payment, any underpayment or overpayment will be recoverable by or from the Recipient, as the case may be.

7.7 Taxes

The Recipient must pay:

(a) all stamp duty (including penalties and interest) assessed or payable in respect of this Agreement and the Activity; and

(b) all taxes, duties and government charges imposed or levied in Australia or overseas in connection with the performance of this Agreement.

8. Claims for payment

(a) If the Recipient has achieved the Payment Criteria in respect of the applicable instalment, then not earlier than the due date specified in Table 2 (Payment Criteria) of Part A (Agreement Details), the Recipient must submit to DFAT a claim for payment of the relevant instalment of the grant funding.

(b) A Payment Claim submitted under Clause 8(a) (Claims for payment) must include a correctly rendered invoice to DFAT in accordance with the requirements specified in Clause 9 (Invoicing Requirements).

9. Invoicing Requirements

(a) To be a correctly rendered invoice the invoice must include:

(i) the agreement number and Activity title;

(ii) the payment event number(s) notified by DFAT;

(iii) the amount of grant funding to be paid by DFAT together with any substantiating material required;

(iv) the name of the DFAT Representative;

(v) be accompanied by any supporting documentation and other evidence specified in Table 2 (Payment Criteria) of Part A (Agreement Details) for that instalment; and

(vi) such other information as DFAT requires.

(b) Where Australian GST applies to this Agreement, all invoices must be in the form of a valid tax invoice. Invalid tax invoices will be returned to the Recipient. Information on what constitutes a valid tax invoice can be found at: https://www.ato.gov.au/businesses-and-organisations/gst-excise-and-indirect-taxes/gst/tax-invoices.

(c) Invoices must be submitted to:

RG Casey Building
John McEwen Crescent
Barton ACT 0221 Australia

and

accounts.payable@dfat.gov.au and a copy sent to the DFAT Representative. DFAT prefers to receive electronic invoices.

10. PAYG tax

10.1 PAYG withholding tax

(a) If the Recipient's ABN is not stated in this Agreement, the Recipient must, on or before any payments are required to be made to it under this Agreement, either:

(i) advise DFAT in writing of its ABN; or

(ii) provide evidence to the reasonable satisfaction of DFAT as to why it is not required to obtain an ABN, which obligation may be discharged by providing a signed statement in the form approved by the Commissioner of Taxation from time to time and available at: https://www.ato.gov.au/forms-and-instructions/statement-by-supplier-not-quoting-an-abn.

(b) If the Recipient does not satisfy its obligations under Clause 10.1(a) (PAYG withholding tax), the Recipient acknowledges that DFAT may be required to deduct PAYG withholding tax in accordance with Part 2-5 of the *Taxation Administration Act 1953* (Cth) from the relevant payments to the Recipient at the prescribed rate and remit that to the Australian Taxation Office.

11. Repayment

11.1 Misspent Funds

At any time, DFAT is entitled to recover from the Recipient the amount of any Funds that have been spent or used other than in accordance with this Agreement.

11.2 Unspent Funds

Within thirty (30) days of the earlier of the Activity End Date, expiry or termination of this Agreement, the Recipient must return to DFAT any Funds which have not been spent or legally committed for expenditure by the Recipient in accordance with this Agreement and payable by the Recipient as a current liability (written evidence of which will be required).

11.3 Repayment notice

(a) DFAT may give the Recipient a notice requiring the Recipient to pay to DFAT (or deal with as specified by DFAT) an amount which DFAT is entitled to recover under this Clause 11 (Repayment) or Clause 13 (Assets).

(b) If DFAT gives a notice under Clause 11.3(a) (Repayment notice), the Recipient must pay the amount specified in the notice in full (or deal with it as specified by DFAT) within 14 days after the date of the notice.

11.4 Interest

If the Recipient fails to make payment as required by Clause 11.3 (Repayment notice), the Recipient must pay DFAT interest:

(a) at the general interest charge rate as defined in section 8AAD of the *Taxation Administration Act 1953* (Cth), on a daily compounding basis upon the amount specified in the notice as payable to DFAT; and

(b) from the date the payment was due, for the period it remains unpaid.

11.5 DFAT's rights

This Clause 11 (Repayment) does not limit any other right or remedy of DFAT.

12. Procurement and Grants

(a) If the Funds are being used to procure goods or services, the Recipient must implement procedures so that procurement is undertaken in a manner consistent with the principles of the Australian Commonwealth Procurement Rules (https://www.finance.gov.au/government/procurement/commonwealth-procurement-rules), in particular the core principle of achieving value for money and the supporting principles of:

(i) encouraging competition by ensuring non-discrimination in procurement and using competitive procurement methods;

(ii) promoting use of resources in an efficient, effective, economical and ethical manner; and

(iii) making decisions in an accountable and transparent manner.

(b) If funds are being used to provide grants to third-party recipients, the Recipient must implement procedures so that granting is undertaken in a manner consistent with the principles of the Australian Commonwealth Grant Rules and Guidelines (https://www.finance.gov.au/government/commonwealth-grants) in particular the seven Key Principles for Grants Administration.

(c) If funds are being used to provide grants to third-party recipients, the Recipient must ensure its grant agreements with third-parties includes clauses addressing the requirements set out in:

(i) Clause 29 (Prohibited Dealings);

(ii) Clause 30 (Child protection);

(iii) Clause 31 (Compliance with Laws and policies);

(iv) Clause 32 (Fraud); and

(v) Clause 33 (Anti-Corruption).

13. Assets

13.1 Ownership

The Recipient must not use the Funds to acquire any Assets, apart from those Assets specified in the Activity Proposal without the prior approval of DFAT.

13.2 Asset Threshold

The threshold for assets under this agreement is $5,000 (inclusive of GST or equivalent tax).

13.3 Asset Register

(a) The Recipient must maintain an Asset Register for Assets under this Agreement which must record:

(i) all non-consumable items of a portable nature with a value below the Asset Threshold;

(ii) all Assets with a value at or above the Asset Threshold at the time of purchase;

(iii) Asset description;

(iv) purchase price or total lease cost;

(v) date of purchase or lease and date of payment;

(vi) reason for acquisition;

(vii) type and term of lease (if applicable);

(viii) date of receipt of the Asset at the Activity site;

(ix) identification number for the Asset;

(x) location of Asset;

(xi) current value of the Asset (purchase price minus depreciation);

(xii) disposal date;

(xiii) disposal method; and

(xiv) reason for disposal.

(b) Subject to the requirements of this Clause 13 (Assets) and the terms of any lease, the Recipient will own the Assets unless otherwise specified in Part C (Activity Proposal).

13.4 Use and dealings

(a) During the Agreement Period, the Recipient must use any Asset only for the purposes of the Activity, or other purposes consistent with the Outcomes approved by DFAT.

(b) During the Agreement Period, the Recipient must:

(i) obtain good title to all Assets (other than Assets which the Recipient leases);

(ii) hold all Assets securely and safeguard them against Fraud, theft, loss, damage, or unauthorised use;

(iii) maintain all Assets in good working order;

(iv) maintain all appropriate insurances in respect of any Assets;

(v) if required by Law, maintain registration and licensing of all Assets;

(vi) be fully responsible for, and bear all risks relating to, the use or disposal of all Assets; and

(vii) maintain an Asset Register containing the details as described in Clause 13.3 (Asset Register) and provide a copy of the Assets Register to DFAT on request.

(c) The Recipient must reconcile the Asset Register with the Assets annually and include the results of that reconciliation in the annual report to be provided to DFAT set out in Clause 15.3 (Annual Reports).

(d) The Asset Register and other relevant documents such as import papers and manufacturers' warranties relating to the Assets must be available for audit or review as required by DFAT.

13.5 Sale or disposal

(a) The Recipient must not:

(i) dispose (including any write-offs) of Assets unless:

(A) the disposal is conducted on an arms-length basis; and

(B) any conflicts of interest relevant to the disposal are disclosed to DFAT pursuant to Clause 28 (Conflict of Interest).

(b) If the Recipient sells or otherwise disposes of an Asset during the Agreement Period, the proceeds of any sale or disposal of the Assets forms part of the Funds.

(c) If the Recipient sells or otherwise disposes of an Asset during the Agreement Period, DFAT is entitled, at its discretion, to recover from the Recipient:

(i) the value of the Asset obtained from the sale or disposal of the Asset; or

(ii) the market value of the Asset.

13.6 Termination

On termination or expiry of this Agreement, if DFAT requires the Recipient to use, deal with or transfer any Asset in a way other than that specified in Clause 13.5, DFAT must notify the Recipient within 30 business days from the date of termination or expiry of this Agreement.

13.7 Lost or damaged Assets

If any Asset is stolen, lost, damaged or destroyed, the Recipient must:

(a) reinstate the Asset without using any of the Funds (including using the proceeds of insurance) provided for this Agreement (unless DFAT's prior written consent is obtained to do otherwise);

(b) notify DFAT in writing if the Asset is valued above the Asset Threshold at the time of purchase; and

(c) this Clause 13 (Assets) continues to apply to the reinstated Asset.

14. Monitoring progress

14.1 Progress meetings

(a) The Parties will meet at the times and in the manner reasonably required by DFAT to discuss any issues in relation to this Agreement or the Activity. The Recipient must ensure that the Recipient Representative, and DFAT must ensure the DFAT Representative, is reasonably available to attend such meetings and answer any queries relating to the Activity raised by either Party.

(b) The individual costs of attending these meetings are the responsibility of each individual Party.

If the Recipient has not achieved a Milestone by the due date specified for that Milestone in Part A (Agreement Details) - Table 3 (Milestones), the Parties will meet within fifteen (15) Business Days after that due date to determine next steps and agree to an action plan for achieving the Milestone.

(c) Any action plan agreed under Clause 14.1(c) does not vary this Agreement unless a variation is made in accordance with Clause 38.3 (Variation).

14.2 Evaluation

(a) DFAT may at any time undertake or engage an expert to undertake a review or evaluation of the Activity entered into through the Activity or of DFAT's grant programs.

(b) In relation to any review or evaluation of the Activity, the Recipient must within 14 days after a request by DFAT (or any expert):

(i) provide all reasonable assistance to DFAT (and any expert);

(ii) respond to all reasonable requests from DFAT (and any expert); and

(iii) provide any information reasonably required by DFAT (and any expert).

15. Reporting

15.1 Reporting

(a) The Recipient must provide DFAT with Reports in accordance with this Clause 15 (Reporting).

(b) When the Recipient provides DFAT with a Report, DFAT will notify the Recipient in writing within 30 days after receiving the Report that it has either:

(i) accepted the Report; or

(ii) rejected the Report, providing reasons for its rejection.

(c) If DFAT rejects a Report, the Recipient must reissue the Report in a form that addresses the reasons for the earlier rejection and DFAT will comply with Clause 15.2(b) (Milestone reports) in relation to any reissued Report. Deadline for resubmission of the Report will be mutually agreed in writing by the Parties.

(d) Acceptance of a Report by DFAT does not constitute a release of the Recipient in respect of any matter, an admission or acceptance that the Recipient's performance complies with this Agreement, or acceptance of the accuracy of the Report.

15.2 Milestone reports

(a) The Recipient must provide Milestone reports as required by the Activity Proposal.

(b) Each Milestone report must include:

(i) the name of the Recipient and all Subcontractors (including Grantees);

(ii) a contact name, telephone number and email address;

(iii) the Activity title and number;

(iv) the individual Milestone and period to which the report relates;

(v) a Budget update (including cost to completion);

(vi) a statement of the Funds provided or spent;

(vii) the amount remaining in the account referred to in Clause 6.3 (Bank Account);

(viii) a technical report of the Milestone activities, including:

(A) a description and analysis of the technical progress of the Activity;

(B) evidence that the activities within the Milestone have been achieved;

(C) any major issues or risks which have arisen in the course of achieving the Milestone and the effect they will have on the Activity and what will be done to address any ongoing issues or risks; and

(D) any proposed changes to the Activity; and

(ix) copies of any published reports, promotional material, media publicity, pamphlets or other documentation relevant to the Activity.

15.3 Annual reports

(a) The Recipient must provide an annual progress report within 60 days of each anniversary of the Commencement Date.

(b) Each annual progress report must include:

(i) the name of the Recipient and all Subcontractors (including Grantees);

(ii) the Activity title and number;

(iii) the period to which the Annual report relates;

(iv) a Budget update (including cost to completion);

(v) a statement of the Funds provided or spent;

(vi) the amount remaining in the account referred to in Clause 6.3 (Bank Account);

(vii) a report on the reconciliation of Assets required and a current copy of the Assets Register; and

(viii) a description and analysis of the progress of the Activity, including:

(A) whether the Activity is proceeding in accordance with the Budget and, if it is not, an explanation of why the Budget is not being met, the effect this will have on the Activity and the action the Recipient proposes to take to address this;

(B) progress on achieving the Outcomes;

(C) any major issues or developments which have arisen and the effect they will have on the Activity; and

(D) any proposed changes to the Activity.

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15.4 Acquittal reports

(a) The Recipient must provide acquittal reports:

(i) as required by the Payment Criteria in Table 2 (Payment Criteria) of Part A (Agreement Details); and

(ii) within 60 days after the earlier of the Activity End Date or termination of this Agreement.

(b) Each acquittal report must include the following:

(i) to be prepared by an Independent Auditor:

(A) audited financial statements in accordance with the Applicable Auditing Procedures in respect of the Funds (separately and in the context of the Recipient's overall financial position), which must include a definitive statement as to whether the financial information for the Activity represents the financial transactions fairly and is based on proper accounts and records; and

(B) where there are any qualifications or limitations on the audit, a letter to the Recipient, or a report providing an outline of the reasons for the qualifications or limitations and the remedial action recommended; and

(ii) to be prepared by the CEO/CFO of the Recipient, a certificate:

(A) that all Funds were spent for the purpose of the Activity and in accordance with this Agreement and that the Recipient has complied with this Agreement; and

(B) the amount remaining in the account referred to in Clause 6.3 (Bank Account).

15.5 Final report

(a) Unless stated otherwise, the Recipient must within 60 days of the completion of the Activity provide a report which includes:

(i) the name of the Recipient and all Subcontractors;

(ii) the Activity title and number;

(iii) a statement of the Funds provided and spent;

(iv) the amount (if any) remaining in the account referred to in Clause 6.3 (Bank Account);

(v) a description and analysis of the progress of the Activity, including:

(A) evidence that the Activity has been completed, and the Milestones have been achieved;

(B) details of the extent to which the Activity achieved the Outcomes;

(C) any highlights, breakthroughs or difficulties encountered; and

(D) conclusions or recommendations (if any) arising from the Activity;

(vi) copies of any published reports, promotional material, media publicity, pamphlets or other documentation relevant to the Activity; and

(vii) reconciliation of Assets and a copy of the Asset Register.

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15.6 Ad hoc reports

The Recipient must provide ad-hoc reports as requested by DFAT from time to time at the time and in the manner reasonably required by DFAT in relation to any significant developments concerning the Activity or any significant delays or difficulties encountered in undertaking the Activity.

Subcontracting

16. **Subcontractors**

(a) The Recipient must notify DFAT of the details of its Subcontractors on request from DFAT.

(b) The Recipient must obtain any Subcontractor's express consent for the disclosure to DFAT of the Subcontractor's identity (and their Personal Information, if the subcontractor is an individual). The consent obtained must extend to allowing DFAT to disclose for reporting purposes the Subcontractor's identity and the existence and nature of the Subcontract.

(c) The Recipient must not enter into a Subcontract with a Subcontractor named as an organisation that has not complied with the *Workplace Gender Equality Act 2012* (Cth).

(d) The Recipient acknowledges that the *Workplace Gender Equality Act 2012* (Cth) applies to employers who employ 100 or more employees in Australia and provides for certain reporting obligations by those employers. A failure to comply with this Act may mean that the Director of Workplace Gender Equality may name a person as non-compliant with this Act.

(e) The Recipient must ensure that any Subcontractor complies with all Laws and policies, including the following clauses:

(i) Clause 20 (Confidentiality);

(ii) Clause 22 (Records, books and accounts);

(iii) Clause 23 (Audit and access);

(iv) Clause 27 (Insurance);

(v) Clause 28 (Conflict of interest);

(vi) Clause 29 (Prohibited Dealings);

(vii) Clause 30 (Child protection);

(viii) Clause 31 (Compliance with Laws and policies);

(ix) Clause 32 (Fraud); and

(x) Clause 33 (Anti-Corruption).

(f) The Recipient is fully responsible for:

(i) undertaking the Activity and performing this Agreement even if the Recipient subcontracts any aspect of the Activity; and

(ii) the performance of all of the Recipient's obligations under this Agreement.

and will not be relieved of that responsibility because of any:

(iii) involvement by DFAT or any third party in the performance of the Activity; or

(iv) payment of any Funds.

Information management

17. Intellectual Property Rights

17.1 Pre-existing Recipient Material and Third Party Material

(a) This Clause 17 (Intellectual Property Rights) does not affect the ownership of the Intellectual Property Rights in any DFAT Material, Pre-existing Recipient Material or Third Party Material.

(b) The Recipient must obtain all necessary copyright and other Intellectual Property Right permissions before making any Pre-Existing Recipient Material or Third Party Material available as a part of the Agreement Material or Activity.

17.2 Recipient ownership of Intellectual Property Rights in Agreement Material

(a) All Intellectual Property Rights in the Agreement Material vest in the Recipient on creation.

(b) Unless otherwise specified the Recipient grants to, or must obtain for, DFAT, a perpetual, irrevocable, world-wide, royalty free, non-exclusive licence (including the right to sublicense) to use, reproduce, adapt, Modify, distribute and communicate:

(i) the Agreement Material; and

(ii) any Third Party Material and Pre-Existing Recipient Material,

required to receive the full benefit of the Agreement Material and the Activity, and for any other DFAT or Commonwealth purpose; and

(c) to the extent that the Recipient needs to use any of the DFAT Material for the purpose of performing its obligations under this Agreement, DFAT grants to the Recipient for the Agreement Period, subject to any conditions or restrictions specified in Item 11 of Part A (Agreement Details) and any direction by DFAT, a revocable, world-wide, royalty-free, non-exclusive, non-transferable licence (including the right to sublicense) to use, reproduce, adapt, Modify and communicate such Material solely for the purpose of performing the Activity.

17.3 Warranty

The Recipient warrants that:

(a) the Warranted Materials and DFAT's use of the Warranted Materials will not infringe the Intellectual Property Rights of any person; and

(b) it has the necessary rights to vest the Intellectual Property Rights and grant the licences as provided for in this Clause 17 (Intellectual Property Rights).

17.4 Remedy for breach of warranty

If someone claims, or DFAT reasonably believes that someone is likely to claim, that all or part of the Warranted Materials infringe their Intellectual Property Rights, the Recipient must, in addition to the indemnity under Clause 26 (Indemnity) and to any other rights that DFAT may have against it, promptly, at the Recipient's expense:

(a) use its best efforts to secure the rights for DFAT to continue to use the affected Warranted Materials free of any claim or liability for infringement; or

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(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 of any other person without any degradation of the performance or quality of the affected Warranted Materials.

18. Moral Rights

18.1 Obtaining consents

To the extent permitted by applicable Laws and for the benefit of DFAT, the Recipient must use its best endeavours to ensure that:

(a) each of the Personnel used by the Recipient in the production or creation of the Agreement Material gives, in a form acceptable to DFAT; and

(b) any holder of Moral Rights in Third Party Material included in the Agreement Material gives,

genuine consent in writing, to the use of the Agreement Material for the Specified Acts, even if such use would otherwise be an infringement of their Moral Rights.

18.2 Specified Acts

(a) In this Clause 18.2 (Specified Acts), unless otherwise specified in Item 12 of Part A (Agreement Details), Specified Acts means:

(i) failing to attribute or falsely attributing the authorship of any Agreement Material, or any content in the Agreement Material (including literary, dramatic, artistic works and cinematograph films within the meaning of the *Copyright Act 1968* (Cth);

(ii) materially altering the style, format, colours, content or layout of the Agreement Material and dealing in any way with the altered Agreement Material or infringing copies (within the meaning of the *Copyright Act 1968* (Cth);

(iii) reproducing, communicating, adapting, publishing or exhibiting any Agreement Material, including dealing with infringing copies (within the meaning of the *Copyright Act 1968* (Cth)), without attributing authorship; and

(iv) adding any additional content or information to the Agreement Material.

(b) For the purposes of this Clause 18.2 (Specified Acts), Agreement Material includes any Pre-existing Recipient Material and Third Party Material to the extent that it is included in, forms part of or is attached to the Agreement Material.

19. DFAT Data

19.1 DFAT Data is and will remain the property of DFAT. The Recipient must not, and must use its best endeavours to ensure that Recipient Personnel, a Subcontractor or Subcontractor Personnel, do not:

(a) use DFAT Data for any purpose other than directly in relation to the performance of the Activity;

(b) purport to sell, let for hire, assign rights in or otherwise dispose of any DFAT Data;

(c) make any DFAT Data available to any third party other than an approved Subcontractor and then only to the extent necessary to enable the approved Subcontractor to perform its part of the Activity;

(d) remove any DFAT Data from DFAT's premises without the express written permission of the DFAT Representative; or

(e) commercially exploit DFAT Data and ensure that neither approved Subcontractors nor any Recipient Personnel or Subcontractor Personnel commercially exploit any DFAT Data.

20. Use of Artificial Intelligence (AI)

20.1 Use of AI must be approved by DFAT

(a) Where the Recipient (or any Subcontractor) intends to use an AI System for the performance of the Activity, it must:

(i) notify DFAT beforehand with details of the proposed AI System technology and functionality relevant to the performance of the Activity; and

(ii) obtain DFAT's prior written approval to such use which must not be unreasonably withheld.

20.2 DFAT must respond to a notification under clause 20.1(a) within 15 Business Days of receiving the Recipient's notification (or such other period as may be agreed by the Parties in writing). If DFAT does not respond within that period, DFAT is deemed to have approved the use of the AI System, subject to the Recipient's ongoing compliance with this clause 20.

20.3 The Recipient must only use an AI System in accordance with:

(a) DFAT's approval and any conditions to the approval, if given; and

(b) the terms of this Agreement, including those in relation to Intellectual Property, confidentiality, security, privacy and data usage.

20.4 The Recipient is fully responsible for the performance of its obligations under this Agreement regardless of any use of an AI System in the supply chain used to deliver the Activity (including any use by Subcontractors). This includes where the use is approved by DFAT.

20.5 Clauses 20.1(a) and 20.3(a) do not apply to any AI System that is embedded in the Recipient's enterprise-wide corporate systems (such as systems relating to human resources management, payroll, corporate communications or general business administration platforms), provided that the AI System:

(a) does not generate, process, store or have access to any data connected with this Agreement, including any:

(i) Official Information;

(ii) Security Classified Information;

(iii) DFAT Confidential Information;

(iv) DFAT Data;

(v) DFAT Material;

(vi) Agreement Material;

(vii) Background IP; or

(viii) Personal Information acquired from DFAT or collected or generated in connection with this Agreement;

(b) is not used to produce or contribute to any;

(i) Milestone; or

(ii) Material to be provided by the Recipient under this Agreement; and

(c) is not a Banned AI System.

20.6 Where the Recipient (or any Subcontractor) uses an AI System for the performance of the Activity, it must conduct quality assurance checks on the AI System outputs to ensure they are accurate and reliable.

20.7 Where DFAT approves the use of an AI System, the Recipient must ensure that it retains detailed records of

(a) the AI System used;

(b) the scope of the AI System's use in providing the Activity;

(c) any data collected, processed and stored by the AI System; and

(d) any systems that the AI System interacts with in connection with the performance of the Activity.

The Recipient must promptly provide these records if asked by DFAT.

20.8 The Recipient must ensure that a Banned AI System is not used in the performance of the Activity, including that it is not:

(a) used in any part of the supply chain used to provide the Activity (including by Personnel);

(b) accessed, used, or installed on any Commonwealth system; or

(c) used in any web services or applications to be provided by the Recipient under this Agreement.

20.9 If the Recipient discovers that a Banned AI System has been used in breach of clause 20.8, the Recipient must immediately notify DFAT and remove the Banned AI System from use.

20.10 For the purposes of clauses 20.8 and 20.9, Banned AI System means each of the following:

(a) DeepSeek products, applications and web services in accordance with Protective Security Direction 001-2025 DeepSeek Products, Applications and Web Services (available at Direction 001-2025 on DeepSeek Products, Applications and Web Services | Protective Security Policy Framework);

(b) Kaspersky Lab, Inc. products and web services in accordance with PSPF Direction 002-2025 Kaspersky Lab, Inc. Products and Web Services (available at Direction 002-2025 on Kaspersky Lab, Inc. Products and Web Services | Protective Security Policy Framework);

(c) any other AI System which the Commonwealth prevents the access, use, or installation of on Commonwealth systems in accordance with any Commonwealth law or policy (including a Protective Security Direction issued by the Department of Home Affairs); and

(d) any other AI System nominated by DFAT in writing, provided that any AI System nominated by DFAT under this clause 20.10(d) will only become a Banned AI System from:

(i) the date specified by DFAT when nominating the relevant AI System in writing; or

(ii) if DFAT does not specify any date under clause 20.10(d)(i), then the date that is five (5) Business Days after the date.

20.11 A failure by the Recipient to comply with its obligations under any part of this clause 20 will be a material breach of this Agreement. DFAT's rights under this clause 20 are in addition to and

do not otherwise limit any other rights DFAT may have under this Agreement. The performance by the Recipient of its obligations under this clause 20 will be at no additional cost to DFAT.

21. Confidentiality

21.1 Prohibition on disclosure

(a) Subject to Clause 21.2 below, a Party must not, without the prior written consent of the other Party, disclose any Confidential Information of the other Party to a third party.

(b) In giving written consent to the disclosure of Confidential Information, a Party may impose such conditions as it thinks fit, and the other Party agrees to comply with these conditions.

21.2 Exceptions to obligations

The obligations on the Parties under Clause 21.1 (Prohibition on disclosure) above will not be taken to have been breached to the extent that Recipient Confidential Information:

(a) is disclosed by a Party to its Personnel or advisers solely in order to comply with obligations, or to exercise rights, under this Agreement;

(b) is disclosed to a Party's internal management personnel, solely to enable effective management or auditing of activities related to this Agreement;

(c) is disclosed by DFAT, to the responsible Minister, a House or a Committee of the Parliament of the Commonwealth of Australia;

(d) is shared by DFAT within DFAT, or with another Commonwealth agency, State or Territory Government or Partner Government, where this serves the Commonwealth's legitimate interests, the State's or Territory's legitimate interests or the Partner Government's legitimate interests;

(e) is authorised or required by Law to be disclosed or required in connection with legal proceedings; or

(f) is in the public domain otherwise than due to a breach of this Agreement.

21.3 Transfer of data

The Recipient must not transfer, transmit or disclose Confidential Information of DFAT and Personal Information or allow Confidential Information of DFAT and Personal Information to be taken, transferred, transmitted, accessed or disclosed outside Australia, except to the Partner Country, or allow parties outside Australia to have access to it, without the prior approval of DFAT.

21.4 Return of information

The Recipient must use any Confidential Information of DFAT held, acquired or which the Recipient may have had access to in connection with this Agreement only for the purposes of fulfilling its obligations under this Agreement. Upon expiry or earlier termination of this Agreement the Recipient must either destroy or deliver to DFAT all Confidential Information of DFAT, as required by DFAT.

22. Records, books and accounts

22.1 Recipient to keep records, books and accounts

The Recipient must:

(a) at all times maintain, and must ensure that its Subcontractors maintain, full, true, separate and up-to-date records, books and accounts in relation to the Activity, Funds and this

Agreement, including operational records, financial records and records in relation to the Funds. Such records, books and accounts must, without limitation:

(i) record all operational activities in relation to the Activity, including to enable the prevention, detection and investigation of Fraud as required by Clause 32 (Fraud);

(ii) record all receipts and expenses related to the Activity, including those involving foreign exchange transactions;

(iii) enable all receipts and expenses related to the Activity to be identified and reported in accordance with this Agreement;

(iv) enable the amounts payable by DFAT under this Agreement to be determined;

(v) be kept in a manner that permits them to be conveniently and properly audited or reviewed;

(vi) enable the extraction of all information relevant to this Agreement; and

(b) retain and require its Subcontractors to retain for a period of seven years after the expiry or termination of this Agreement, all records, books and accounts relating to the Activity, the Funds and this Agreement.

22.2 Costs

The Recipient must bear its own costs of complying with this Clause 22 (Records, books and accounts).

22.3 Survival

This clause 22 (Records, books and accounts) applies for the Agreement Period and for a period of seven years from the expiry or termination of this Agreement.

23. Audit and access

23.1 Right to conduct audits or reviews

(a) DFAT or a representative may conduct audits or reviews relevant to the performance of the Recipient's obligations under this Agreement. Audits or reviews may be conducted of:

(i) the use of the Funds;

(ii) the Assets;

(iii) the Recipient's operational practices and procedures as they relate to this Agreement;

(iv) the accuracy of the Recipient’s invoices and Reports;

(v) the Recipient's compliance with its confidentiality and privacy obligations under this Agreement;

(vi) the Recipient's compliance with its Child Protection Policy obligations under Clause 30 (Child Protection);

(vii) the Recipient's compliance with Laws, guidelines and policies including the policies listed at Clause 31 (Compliance with Laws and Policies);

(viii) the Recipient's compliance with its Fraud control strategy and policies including Fraud prevention, reporting and investigation obligations under this Agreement;

(ix) Material (including records, books and accounts) in the possession of the Recipient relevant to the Activity or this Agreement; and

(x) any other matters determined by DFAT to be relevant to the Activity or this Agreement.

(b) If DFAT decides to conduct or commission audits or reviews, it will give reasonable notice to the Recipient. The Recipient must participate co-operatively in any audit or review conducted by DFAT or a representative.

23.2 Access by DFAT

(a) DFAT may, at reasonable times and on giving reasonable notice to the Recipient:

(i) access the premises of the Recipient and premises where the Activity is being undertaken to the extent relevant to the performance of this Agreement;

(ii) require the provision by the Recipient, its Personnel or Subcontractors of records and information in a data format and storage medium accessible by DFAT by use of DFAT's existing computer hardware and software;

(iii) inspect and copy documentation, records, books and accounts, however stored, in the custody or under the control of the Recipient, its Personnel or Subcontractors; and

(iv) require assistance in respect of any inquiry into or concerning the Activity or this Agreement. For these purposes an inquiry includes any administrative or statutory review, audit or inquiry (whether within or external to DFAT), any request for information directed to DFAT, and any inquiry conducted by Parliament or any Parliamentary committee.

(b) The Recipient must provide access to its computer hardware and software to the extent necessary for DFAT to exercise its rights under this Clause 23 (Audit and access) and provide DFAT with any reasonable assistance requested by DFAT to use that hardware and software.

23.3 Conduct of audit and access

DFAT must use reasonable endeavours to ensure that:

(a) audits or reviews performed pursuant to Clause 23.1 (Right to conduct audits or reviews) above; and

(b) the exercise of the general rights granted by Clause 23.2 (Access by DFAT) by DFAT,

do not unreasonably delay or disrupt in any material respect the Recipient's performance of its obligations under this Agreement or its business.

23.4 Costs

Unless otherwise agreed in writing, each Party must bear its own costs of any reviews and/or audits.

23.5 DFAT officers and experts

The rights of DFAT under Clause 23.2(a)(i) to Clause 23.2(a)(iii) (Right to conduct audits or reviews) apply equally to:

(a) the Auditor-General, Information Commissioner, Privacy Commissioner and Freedom of Information Commissioner and their delegates, for the purpose of performing their statutory functions or powers; and

(b) any expert engaged for the purposes of Clause 14.2 (Evaluation).

23.6 Recipient to comply with DFAT officers' requirements

The Recipient must do all things necessary to comply with the Auditor-General's, Information Commissioner's, Privacy Commissioner's or Freedom of Information Commissioner's or his or her delegate's requirements, notified under Clause 23 (Audit and access) above, provided such requirements are legally enforceable and within the power of the Auditor-General, Information Commissioner, Privacy Commissioner or Freedom of Information Commissioner, or his or her respective delegate.

23.7 No reduction in responsibility

The requirement for, and participation in, audits or reviews does not in any way reduce the Recipient's responsibility to perform its obligations in accordance with this Agreement.

23.8 Subcontractor requirements

The Recipient must ensure that any subcontract entered into for the purpose of this Agreement contains an equivalent clause granting the rights specified in this Clause 23 (Audit and access).

23.9 No restriction

Nothing in this Agreement reduces, limits or restricts in any way any function, power, right or entitlement of the Auditor-General, Information Commissioner, Privacy Commissioner or Freedom of Information Commissioner, other Commonwealth Commissioner or their delegates. The rights of DFAT under this Agreement are in addition to any other power, right or entitlement of the Auditor-General, Information Commissioner, Privacy Commissioner or Freedom of Information Commissioner or their delegates.

23.10 Survival

This Clause 23 (Audit and access) applies for the Agreement Period and for a period of seven years from the expiry or termination of this Agreement.

24. Acknowledgement and publicity

24.1 Acknowledgment by Recipient

The Recipient must, in all publications, promotional and advertising materials, public announcements, events and activities in relation to the Activity, or any products, processes or inventions developed as a result of it, acknowledge the financial and other support received from DFAT, in the manner specified in the DFAT publication 'Visibility and Recognition: Guidelines for NGOs (available on DFAT's website) or otherwise approved by DFAT prior to its use.

24.2 DFAT rights

(a) DFAT reserves the right to publicise and report on the awarding of the grant funding under this Agreement, and may do this by, amongst other means, including the Recipient's name, any Subcontractor's name, the amount of the Total Funds and a brief description of the Activity on websites and in media releases, general announcements about the DFAT's grant programs and annual reports.

(b) Without limiting any other right of DFAT, DFAT may disclose information about this Agreement, the Recipient or the Activity to any State or Territory government of Australia or a Partner Government.

24.3 Announcements

(a) The Recipient must, before making a public announcement in connection with this Agreement or any transaction contemplated by it, provide DFAT with reasonable prior written notice, except if the announcement is required by Law or a regulatory body (including a relevant stock exchange).

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(b) If the Recipient is required by Law or a regulatory body to make a public announcement in connection with this Agreement or any transaction contemplated by this Agreement, the Recipient must, to the extent practicable, first consult with and take into account the reasonable requirements of DFAT.

24.4 Activity Events

(a) The Recipient must not undertake, or participate in any way in, any Activity Event, without providing DFAT with reasonable prior written notice.

(b) The Recipient must:

(i) notify DFAT of a proposed Activity Event at a reasonable interval prior to proposed date for the Activity Event and submit all details of the Activity Event to DFAT in the format required by DFAT;

(ii) invite a representative of DFAT to the Activity Event; and

(iii) if required by DFAT, provide the DFAT representative an opportunity to speak at the Activity Event.

(c) The Recipient must notify DFAT of any change to Activity Event details as soon as possible.

Risk management

25. Risk management

(a) The Recipient is responsible for, accepts, and must manage all the risks of and associated with the Activity.

(b) The Recipient must maintain appropriate risk mitigation measures, which may include preparing, maintaining and using risk registers.

26. Indemnity

(a) The Recipient at all times indemnifies and holds harmless DFAT, its officers and employees (referred to in this Clause 26 (Indemnity) as "those indemnified") from and against any loss or liability, including:

(i) loss of, or damage to, property of DFAT;

(ii) claims by any person in respect of personal injury or death;

(iii) claims by any person in respect of loss of, or damage to, any property; and

(iv) costs and expenses, including the costs of defending or settling any claim referred to in Clause 26(a)(ii) (Indemnity) or Clause 26(a)(ii),

arising out of or as a consequence of:

(v) the unlawful, negligent or wilfully wrongful, act or omission of the Recipient, or its Personnel in the conduct of the Activity;

(vi) the Warranted Materials (including the use of the Warranted Materials by DFAT or its Personnel) infringing or allegedly infringing the Intellectual Property Rights of any person;

(vii) a breach of Clause 21 (Confidentiality) or Clause 16(b) (Subcontractors); or

(viii) without limiting the preceding paragraphs, any breach of this Agreement by the Recipient, or its Personnel.

(b) The Recipient's liability to indemnify those indemnified under Clause 24(a) will be reduced proportionally to the extent that any negligent act or omission of those indemnified contributed to the loss.

27. Insurance

27.1 Obligation to maintain insurance

(a) In connection with the Activity, the Recipient must have and maintain for the Agreement Period, valid and enforceable appropriate insurance policies relevant to the performance of the Activity including where appropriate, the amount of any professional indemnity insurance specified in Item 13 of Part A (Agreement Details).

(b) If it is specified in Item 13 of Part A (Agreement Details) that the Recipient is required to have and maintain professional indemnity insurance, the Recipient must continue to maintain such insurance for a period of seven years following the expiry or termination of the Agreement.

27.2 Confirmation of insurance

The Recipient must, on request by DFAT, provide current relevant confirmation of insurance documentation for example, a certificate of currency from its insurers or insurance brokers certifying that it has insurance as required by Clause 27 (Insurance).

28. Conflict of interest

28.1 Warranty

The Recipient warrants that, to the best of its knowledge after making diligent inquiry, at the date of signing this Agreement, no conflict of interest exists or is likely to arise in the performance of its obligations under this Agreement.

28.2 Notification of a conflict of interest

If, during the Activity a conflict of interest arises, or appears likely to arise, the Recipient must:

(a) notify DFAT immediately in writing;

(b) make full disclosure of all relevant information relating to the conflict; and

(c) take such steps as DFAT requires to resolve or otherwise deal with the conflict.

29. Prohibited Dealings

(a) The Recipient must ensure that individuals, persons, entities or organisations involved in implementing the Activity, including itself and its Personnel, are not:

(i) directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act;

(ii) listed on the Criminal Code Act List;

(iii) listed on the Sanctions List;

(iv) listed on the World Bank List;

(v) acting on behalf of, or at the direction of, individuals, persons, entities or organisations mentioned in subsections (i) to (iv); and/or

(vi) owned or controlled by individuals, persons, entities or organisations mentioned in subsections (i) to (iv).

(b) The Recipient must ensure that none of the Funds provided under this Agreement (whether through a subcontract or not) are used in any way to directly or indirectly provide support, resources or assets to individuals, persons, entities or organisations:

(i) directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act;

(ii) listed on the Criminal Code Act List;

(iii) listed on the Sanctions List;

(iv) listed on the World Bank List;

(v) acting on behalf of, or at the direction of, individuals, persons, entities or organisations mentioned in subsections (i) to (iv); and/or

(vi) owned or controlled by individuals, persons, entities or organisations mentioned in subsections (i) to (iv).

(c) If, during the Agreement Period, the Recipient becomes aware of any link whatsoever between it or its Personnel and any individual, person, entity or organisation:

(i) directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act;

(ii) listed on the Criminal Code Act List;

(iii) listed on the Sanctions List;

(iv) listed on the World Bank List;

(v) acting on behalf of, or at the direction of, individuals, persons, entities or organisations mentioned in subsections (i) to (iv); and/or

(vi) owned or controlled by individuals, persons, entities or organisations mentioned in subsections (i) to (iv).

it must inform DFAT immediately.

(d) If, during the Agreement Period, the Recipient becomes aware that it, any of its Personnel or any individual, person, entity or organisation involved in implementing the Activity or otherwise involved in the Activity is:

(i) directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act;

(ii) listed on the Criminal Code Act List;

(iii) listed on the Sanctions List;

(iv) listed on a World Bank List or subject to any proceedings or an informal process which could lead to them becoming so listed;

(v) temporarily suspended from tendering for World Bank grants by the World Bank pending the outcome of a sanctions process or from tendering by a donor of development funding other than the World Bank;

(vi) the subject of an investigation (whether formal or informal) by the World Bank or another donor of development funding;

(vii) acting on behalf of, or at the direction of, individuals, persons, entities or organisations mentioned in subsections (i) to (vi); and/or

(viii) owned or controlled by individuals, persons, entities or organisations mentioned in subsections (i) to (vi),

the Recipient must inform DFAT immediately.

(e) If, during the Agreement Period, the Recipient discovers that any or all of the Funds provided under this Agreement (whether through a subcontract or not) have been used in any way to directly or indirectly provide support, resources or assets to an individual, person, entity or organisation:

(i) directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act;

(ii) listed on the Criminal Code Act List;

(iii) listed on the Sanctions List;

(iv) listed on the World Bank List;

(v) acting on behalf of, or at the direction of, individuals, persons, entities or organisations mentioned in subsections (i) to (iv); and/or

(vi) owned or controlled by individuals, persons, entities or organisations mentioned in subsections (i) to (iv).

it must inform DFAT immediately.

(f) The Recipient must have regard to the Australian Government guidance "Safeguarding your organisation against terrorism financing: a guidance for non-profit organisations", available from the Australian Attorney-General's Department website.

(g) The Recipient warrants that the Recipient and its Personnel have not made or caused to be made, or received or sought to receive, any offer, gift or payment, consideration or benefit of any kind, which would or could be construed as an illegal or corrupt practice, either directly or indirectly to any Party, as an inducement or reward in relation to the execution of this Agreement.

(h) The Recipient must not, and must ensure that its Personnel do not:

(i) make or cause to be made, or receive or seek to receive, any offer, gift or payment, consideration or benefit of any kind, which would or could be construed as an illegal or corrupt practice, either directly or indirectly to any party, as an inducement or reward in relation to this Agreement; or

(ii) engage in any practice that could contravene the Australian offence of bribing a foreign public official.

30. Child protection

(a) In undertaking the Activity, the Recipient must comply, and must ensure that its officers, employees, agents and subcontractors involved in implementing the Activity, comply with DFAT's Child Protection Policy, accessible at http://www.dfat.gov.au/childprotection.

(b) DFAT may conduct a review of the Recipient's compliance with DFAT's Child Protection Policy referred to in Clause 30(a) (Child Protection). DFAT will give reasonable notice

(at least 14 calendar days) to the Recipient, and the Recipient must, at its own cost, participate co-operatively in any such review.

(c) The Recipient must immediately (within 24 hours) report to childprotection@dfat.gov.au any suspected or alleged case of child exploitation, abuse or harm related to the Activity.

(d) In reporting to DFAT as required pursuant to Clause 30(c), the Recipient must comply with the *Privacy Act 1988* (Cth) and the privacy provisions in the DFAT Incident Notification Form, accessible at: www.dfat.gov.au/childprotection.

(e) This Clause 30 is a material term of the Agreement. DFAT may immediately terminate this Agreement by giving notice to the Recipient where it finds significant non-compliance by the Recipient with the requirements set out in this Clause 30.

31. Compliance with Laws and Policies

31.1 Laws and Policies

(a) The Recipient must, and must ensure that its Personnel, have regard to and comply with relevant and applicable Laws, guidelines and policies, including those in Australia and in the Partner Country.

(b) The Recipient must and must ensure that its Personnel comply with all DFAT policies as listed on DFAT's website http://www.dfat.gov.au.

(c) A list, as amended from time to time, of Australian laws and guidelines that may apply to the delivery of developmental aid to foreign countries can be found on the DFAT website: http://www.dfat.gov.au. This list is not exhaustive and is provided for information only.

(d) The provision of the list referenced at Clause 31(b) (Compliance with Laws and Policies) above does not relieve the Recipient from complying with the obligations contained in this Clause 31 (Compliance with Laws and Policies).

(e) The Recipient must have regard to and comply with the Statement of International Development Practice Principles available on the DFAT website.

31.2 Protection from Sexual Exploitation, Abuse and Harassment (**PSEAH**)

(a) In undertaking the Activity, the Recipient must comply with and ensure that its Personnel involved in implementing the Activity comply with, DFAT's Protection from Sexual Exploitation, Abuse and Harassment Policy, accessible at http://www.dfat.gov.au/pseah.

(b) In accordance with DFAT's Protection from Sexual Exploitation, Abuse and Harassment Policy, the Recipient must immediately (within 24 hours) report to seah.reports@dfat.gov.au any suspected or alleged case of sexual exploitation, abuse and harassment that relates to the Activity.

(c) In reporting to DFAT as required pursuant to clause 31.2(b), the Recipient must comply with the *Privacy Act 1988* (Cth) and the privacy provisions in the DFAT Incident Notification Form, accessible at http://www.dfat.gov.au/pseah.

(d) DFAT may conduct a review of the Recipient's compliance with DFAT's Protection from Sexual Exploitation, Abuse and Harassment Policy. DFAT will give reasonable notice (at least 14 calendar days) to the Recipient, and the Recipient must, at its own cost, participate co-operatively in any such review.

(e) This Clause 31.2. is a material term of the Agreement. DFAT may immediately terminate this Agreement by giving notice to the Recipient where it finds significant non-compliance by the Recipient with the requirements set out in this clause 31.2.

32. Fraud

32.1 Obligations to prevent and detect Fraud

(a) The Recipient must not, and must ensure that any Recipient Personnel do not, engage in any Fraud and must prevent and detect Fraud, including Fraud by Recipient Personnel.

(b) The Recipient is responsible for preventing and detecting Fraud including Fraud within those functions performed by any Subcontractor relating to the performance of this Agreement.

(c) The Recipient must ensure that Recipient Personnel are responsible and accountable to the Recipient for preventing, detecting and immediately reporting any Fraud as part of their routine responsibilities. The Recipient must ensure that Recipient Personnel who are not employed by the Recipient report suspected Fraud to the Recipient within five [5] Business Days.

32.2 Fraud Control Strategy and Risk Assessment

(a) Within one month after the Commencement Date, the Recipient must:

(i) conduct a Fraud risk assessment; and

(ii) produce a Fraud control strategy that:

(A) complies with the Commonwealth Fraud and Corruption Control Framework; and

(B) contains appropriate Fraud prevention, detection, investigation and reporting processes and procedures that comply with the Australian Government Investigations Standards.

32.3 Notification of Fraud

(a) If the Recipient becomes aware of a Fraud relating to the performance of this Agreement, it must report the matter to DFAT in writing within five [5] Business Days of becoming aware of the Fraud. The report must contain the following information:

(i) a chronology of facts which are relevant to the Fraud;

(ii) the names of Recipient Personnel and other persons suspected of engaging in the Fraud;

(iii) copies of any documents which are relevant to the Fraud;

(iv) the current status of any inquiries commenced by the Recipient into the Fraud; and

(v) any other information reasonably required by DFAT.

32.4 Investigation and Recovery

(a) If the Recipient becomes aware of any actual or suspected Fraud, the Recipient must:

(i) comply with any direction given by DFAT;

(ii) either conduct its own investigation, or appoint an investigator to conduct the investigation;

(iii) ensure that the person conducting the investigation possesses the minimum qualifications specified in the Australian Government Investigation Standards or an equivalent if agreed by DFAT; and

(iv) investigate the suspected Fraud at its own cost and in accordance with any directions or standards required by DFAT.

(b) DFAT reserves the right to appoint its own investigator, conduct its own investigation and/or report suspected Fraud to the appropriate law enforcement agencies or any other person or entity DFAT deems appropriate in Australia or in the Partner Country for investigation. If DFAT exercises its rights under this Clause 32.4, the Recipient must provide all reasonable assistance that may be required at its own expense.

(i) If an investigation finds the Recipient or any of its Personnel have in all likelihood engaged in Fraud or if DFAT discovers that a Fraud has not been reported in accordance with this Clause 32.4:

(ii) the Recipient, in consultation with DFAT, must:

(A) pay to DFAT the full value of any misappropriated DFAT funds; and

(B) either return any misappropriated DFAT property to DFAT or, if the property cannot be recovered or has been damaged, replace the property with property of equivalent value or quality, or repair the property, at no cost to DFAT; and

(C) DFAT may terminate this Agreement immediately by issuing a notice under Clause 37.2.

(c) The Recipient 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.

33. Anti-Corruption

33.1 Definitions

(a) In this Clause:

(i) **'Bribery'** means any practice that, if engaged in within Australia, could constitute the offence of bribing a foreign public official under s 70.2, or engaging in any practice that could constitute the offence of failing to prevent bribery of a foreign public official under the *Criminal Code Act 1995* (Cth), in relation to the performance of the Agreement;

(ii) **'Corrupt Conduct'** means corrupt conduct as defined in the *National Anti-Corruption Commission Act 2022* (Cth) or conduct that would satisfy that definition if any party involved in the conduct were a 'public official' as defined in that Act; and

33.2 Disclosure Warranty

(a) The Recipient warrants that, to the best of its knowledge, it has disclosed to DFAT:

(i) all allegations of, or investigations in relation to, Corrupt Conduct involving it, or its Personnel, that may substantially impact on compliance with Commonwealth policy and legislation or the Commonwealth's reputation; and

(ii) any substantiated instances of Corrupt Conduct in the past [3] years, involving it, or its Personnel, that may substantially impact on compliance with Commonwealth policy and legislation or the Commonwealth's reputation.

33.3 Corrupt Conduct Prohibited

(a) The Recipient must not, and must ensure that its Personnel do not:

(i) engage in Corrupt Conduct; or

(ii) engage in any other conduct which could actually or potentially compromise the integrity, accountability or probity of the administration of, or delivery of the Activity.

33.4 Obligation to prevent Corrupt Conduct

(a) The Recipient acknowledges that it is responsible for preventing and detecting Corrupt Conduct.

(b) The Recipient must comply with any reasonable request, policy or direction issued by DFAT, and cooperate with DFAT, at its own cost, concerning Corrupt Conduct, including in relation to the detection, investigation and notification of Corrupt Conduct or any action taken by DFAT required or authorised by the *National Anti-Corruption Commission Act 2022* (Cth).

33.5 Corruption Control Strategy

Within one month following the Commencement Date, the Recipient must prepare a corruption risk assessment and corruption control strategy for the Activity and, if requested by DFAT, provide DFAT with the corruption control strategy within five (5) Business Days of the request. The risk assessment and strategy must contain appropriate corruption prevention, detection, investigation and reporting processes and procedures that comply with the Commonwealth Fraud and Corruption Control Framework (http://www.ag.gov.au). The Recipient's strategies must include:

(i) preparation and implementation of a corruption control strategy, policy and relevant procedures applicable to the Recipient, and its Personnel;

(ii) development of guidance on corruption and delivery of materials and training to the Recipient's Personnel;

(iii) provision of mandatory corruption control awareness training to all of the Recipient's Personnel and implementation of procedures to track attendance; and

(iv) any other matter requested by DFAT.

33.6 Reporting and Investigation

(a) If the Recipient knows or suspects any practice to have occurred in relation to this Agreement, then it must:

(i) report the matter and provide all relevant information to DFAT within five (5) Business Days;

within fifteen (15) Business Days, develop a strategy to investigate the relevant practice, for DFAT's approval, based on the principles set out in the Australian Government Investigations Standards (https://www.ag.gov.au/sites/default/files/2022-12/Australian-Government-Investigations-Standard-2022.pdf);

(ii) undertake the investigation in accordance with the approved strategy at the Recipient's own cost; and

(iii) report to DFAT on the progress and outcome of the investigation.

(b) The person nominated to conduct the investigation must possess the minimum qualifications specified in the Australian Government Investigation Standards or an equivalent agreed to by DFAT and at the conclusion of the investigation, promptly report full details of the Corrupt Conduct to DFAT in writing.

(c) In addition to the investigation carried out by the Recipient under Clause 33.6(a) above, DFAT or its nominee may conduct its own investigation. If DFAT exercises its rights

under this Clause 33.6(c), the Recipient must provide all reasonable assistance and information as requested at the Recipient's expense.

33.7 Recovery of Funds or Assets

(a) Following the conclusion of any investigation in connection with the performance of the Agreement that finds that the Recipient or its Personnel, have engaged in any Corrupt Conduct must, at its own cost:

(i) make every effort to recover any relevant Funds or Assets acquired or distributed through the Corrupt Conduct in accordance with recovery procedures, including civil litigation, available in the Partner Country;

(ii) refer the matter to the Partner Country police or other authorities responsible for prosecution of the relevant practice, unless an exemption has been sought and granted by the relevant DFAT delegate;

(iii) keep DFAT informed, in writing, on a monthly basis, of the progress of the investigation and recovery action; and

(iv) reimburse or return to DFAT any Funds or Assets misappropriated through the Corrupt Conduct that are recovered by the Recipient.

(b) If the Recipient considers that after all reasonable action has been taken under Clause 33.7(a) to recover the Funds or Assets and full recovery has not been achieved or recovery has only been achieved in part, the Recipient:

(i) may seek approval from DFAT that no further recovery action be taken;

(ii) must provide to DFAT all information, records and documents required by DFAT to enable DFAT to make a decision on whether or not to approve non-recovery of losses arising from the Corrupt Conduct, or misappropriated Funds or Assets.

34. Environmental and Social Safeguards Policy

34.1 In undertaking the Activity, the Recipient must comply with, and must ensure that its Personnel involved in implementing the Activity comply with, DFAT's Environmental and Social Safeguards (ESS) Policy including any associated plans or reporting requirements.

34.2 DFAT may conduct a review of the Recipient compliance with the ESS Policy, associated plans or reporting requirements. DFAT will give reasonable notice to the Recipient, and the Recipient must at its own cost participate co-operatively in any such review.

The Recipient must report any non-compliance with ESS Policy or associated plans and provide details of proposed remediation plans or activities within five (5) Business Days of becoming aware of the non-compliance.

34.3 This Clause 34 is a material term of the Agreement. DFAT may immediately terminate or suspend this Agreement by giving notice to the Recipient where it finds significant non-compliance by the Recipient with the requirements set out in this Clause 34 (Environmental and Social Safeguard Policy).

35. Force Majeure Events

35.1 Occurrence of Force Majeure Event

A Party (Affected Party) is excused from performing its obligations under this Agreement to the extent it is prevented by circumstances which:

(a) are beyond its reasonable control (other than, in respect of the Recipient only, lack of funds for any reason or any strike, lockout or labour dispute) including, natural disasters,

acts of war, act of terrorism, riots and strikes outside the Affected Party's organisation; and

(b) could not have been prevented or overcome by the Affected Party (or, where the Affected Party is the Recipient) exercising a standard of care and diligence consistent with that of a prudent and competent person operating within the relevant industry,

(a 'Force Majeure Event').

35.2 Notice of Force Majeure Event

When a Force Majeure Event arises or is reasonably perceived by the Affected Party as an imminent possibility, the Affected Party must give notice of those circumstances to the other Party as soon as possible, identifying the effect they will have on its performance. The Affected Party must make all reasonable efforts to minimise the effects of such circumstances on the performance of this Agreement.

35.3 Payment

DFAT is not obliged to pay the Recipient any grant funding for so long as a Force Majeure Event prevents the Recipient from performing its obligations under this Agreement.

35.4 Termination

If non-performance or diminished performance by the Recipient due to a Force Majeure Event continues for a period of more than 60 days, DFAT may, at any time after the period, terminate this Agreement immediately by giving the Recipient written notice.

35.5 Consequences of termination

If this Agreement is terminated under Clause 35.4 (Termination) above:

(a) DFAT is liable only for:

(i) payments under Clause 7 (Payment of Funds by DFAT) in accordance with this Agreement before the effective date of termination, but only to the extent that those monies have been spent, or legally committed for expenditure by the Recipient in accordance with this Agreement and are payable by the Recipient as a current liability, by the date the Recipient receives the notice of termination (written evidence of which will be required); and

(ii) where the Recipient has undertaken work on but not completed a Milestone by the date the Recipient receives the notice of termination, grant funding in accordance with this Agreement to the extent that those monies have been spent, or legally committed for expenditure by the Recipient in accordance with this Agreement and payable by the Recipient as a current liability, on that Milestone by the date the Recipient receives the notice of termination (written evidence of which will be required); and

(b) each Party will bear its own costs and neither Party will incur further liability to the other.

36. Dispute resolution

36.1 No arbitration or court proceedings

If a dispute arises in relation to this Agreement ('Dispute'), a Party must comply with Clause 36.3 (Parties to resolve Dispute) before starting arbitration or court proceedings, except proceedings for urgent interlocutory relief. After a Party has sought or obtained any urgent interlocutory relief, that Party must follow Clause 36.3 (Parties to resolve Dispute).

36.2 Notification

A Party claiming a Dispute has arisen must give the other Party notice setting out details of the Dispute.

36.3 Parties to resolve Dispute

During the 60 days after a notice is given under Clause 36.2 (Notification) (or longer period if the Parties agree in writing), each Party must use its reasonable efforts through a meeting of senior management representatives (or their nominees) to resolve the Dispute.

36.4 Breach of this clause

If a Party breaches Clauses 36.1 (No arbitration or court proceedings) to 36.3 (Parties to resolve Dispute) above, the other Party does not have to comply with those clauses in relation to the Dispute.

36.5 Exception

For the purpose of this Clause 36 (Dispute resolution), a Dispute does not include a dispute arising in relation to DFAT:

(a) suspending payment of grant funding under Clause 7.2 (Suspension);

(b) reducing the amount of an instalment of grant funding under Clause 7.4 (Reduction);

(c) requiring payment under Clause 11 (Repayment); or

(d) terminating this Agreement or reducing the scope of the Activity under Clause 37 (Termination).

37. Termination

37.1 Termination for convenience

(a) Without limiting any other rights or remedies DFAT may have arising out of or in connection with this Agreement, DFAT may, by notice, terminate this Agreement or reduce the scope of the Activity for any reason.

(b) On receipt of a notice of termination or reduction the Recipient must:

(i) take all available steps to minimise loss resulting from that termination or reduction and to protect Agreement Material; and

(ii) in the case of a reduction in scope, continue to undertake any part of the Activity not affected by the notice (unless the Recipient, acting reasonably, notifies DFAT that it is not commercially viable to do so).

(c) If this Agreement is terminated under this Clause 37.1 (Termination for convenience), DFAT is liable only for:

(i) payments under Clause 7 (Payment of Funds by DFAT) in accordance with this Agreement before the effective date of termination, but only to the extent that those monies have been spent, or legally committed for expenditure by the Recipient in accordance with this Agreement and are payable by the Recipient as a current liability, by the date the Recipient receives the notice of termination (written evidence of which will be required);

(ii) where the Recipient has undertaken work on but not completed a Milestone by the date the Recipient receives the notice of termination, grant funding in accordance with this Agreement to the extent that those monies have been spent, or legally committed for expenditure by the Recipient in accordance with this Agreement and

payable by the Recipient as a current liability, on that Milestone by the date the Recipient receives the notice of termination (written evidence of which will be required); and

(iii) subject to Clause 37.1(e) (Termination for convenience), reasonable costs actually incurred by the Recipient and directly attributable to the termination.

(d) If the scope of the Activity is reduced, DFAT's liability to pay the grant funding under this Agreement abates in accordance with the reduction in the Activity.

(e) DFAT is not liable to pay compensation under Clause 37.1(c)(iii) (Termination for convenience) that exceeds an amount equal to the Total Funds less any amounts paid or due, or becoming due, to the Recipient under this Agreement.

(f) The Recipient is not entitled to compensation for loss of prospective profits.

37.2 Termination for default

(a) Without limiting any other rights or remedies DFAT may have arising out of or in connection with this Agreement, DFAT may terminate this Agreement or reduce the scope of the Activity effective immediately by giving notice to the Recipient if:

(i) the Recipient breaches a material provision of this Agreement where that breach is not capable of remedy;

(ii) the Recipient breaches any provision of this Agreement and fails to remedy the breach within 14 days after receiving notice requiring it to do so;

(iii) in the opinion of DFAT, a conflict of interest exists which would prevent the Recipient from performing its obligations under this Agreement;

(iv) the Recipient:

(A) Abandons the Activity;

(B) notifies DFAT of an intention to Abandon the Activity; or

(C) states an intention to Abandon the Activity,

and does not, when requested by DFAT, demonstrate to DFAT's satisfaction within 14 days that the Recipient will proceed with the Activity;

(v) in DFAT's reasonable opinion, it is unlikely that the Recipient will be able to achieve a Milestone to DFAT's satisfaction;

(vi) DFAT is satisfied that any statement made in the Application is incorrect, incomplete, false or misleading in a way which would have affected the original decision to approve the provision of the grant funding under this Agreement;

(vii) a Related Agreement is terminated by DFAT for default by the Recipient;

(viii) there is a Change in Control of the Recipient; or

(ix) an Insolvency Event occurs in relation to the Recipient.

(b) Without limitation, for the purposes of Clause 37.2(a)(i) (Termination for default), each of the following constitutes a breach of a material provision:

(i) breach of warranty under Clause 4.2 (Warranties);

(ii) a failure to comply with Clause 6.1 (What Funds can be used for);

(iii) a failure to comply with Clause 16 (Subcontractors);

(iv) a failure to comply with Clause 17 (Intellectual Property Rights);

(v) a failure to comply with Clause 27 (Insurance);

(vi) a failure to notify DFAT of a conflict of interest under Clause 28 (Conflict of interest);

(vii) a failure to comply with Clause 30 (Child Protection);

(viii) a failure to comply with Clause 31 (Compliance with Laws and policies);

(ix) a breach of warranty or a failure to comply with Clause 32 (Fraud);

(x) a breach of warranty or a failure to comply with Clause 33 (Anti-Corruption); and

(c) If the scope of the Activity is reduced under this Clause 37.2 (Termination for default):

(i) DFAT's liability to pay the grant funding under this Agreement abates in accordance with the reduction in the Activity; and

(ii) the Recipient must continue to undertake any part of the Activity not affected by the notice (unless the Recipient, acting reasonably, notifies DFAT that it is not commercially viable to do so).

37.3 Termination if DFAT does not proceed to Stage 2: Implementation

(a) Without limiting any other rights or remedies DFAT may have arising out of or in connection with this Agreement, DFAT may terminate this Agreement if DFAT has decided not to authorise the Recipient to commence Stage 2: Implementation under Clause 4.2(b) (Stages of the Activity).

(b) A Notice under Clause 35.3(a) must specify the date on which the termination takes effect.

(c) On receipt of a Notice under Clause 35.3(a) must take all available steps to minimise loss resulting from the termination and to protect Agreement Material.

(d) If this Agreement is terminated under this Clause 35.3 (Termination if DFAT does not proceed to Stage 2: Implementation), DFAT is only liable for:

(i) any instalment of grant funding for Stage 1: Design that became payable to the Recipient under Clause 7 (Payment of Funds to DFAT) before the effective date of termination;

(ii) to the extent not included in Clause 35.3(c)(i), amounts properly spent, or legally committed for expenditure as a current liability, by the Recipient in accordance with this Agreement for Stage 1: Design before the Recipient receives the Notice of termination, written evidence of which will be required; and

(iii) reasonable and unavoidable costs actually incurred by the Recipient and directly attributable to the termination, written evidence of which will be required.

(e) DFAT’s liability under Clause 35.3(c) is capped at the total amount of the instalments allocated to Stage 1: Design in Table 2 (Payment Criteria) of Part A (Agreement Details).

(f) If this Agreement is terminated under this Clause 35.3 (Termination if DFAT does not proceed to Stage 2: Implementation), the Recipient is not entitled to compensation, including for:

(i) loss of prospective profits;

(ii) loss of opportunity; or

(iii) any amount allocated to Stage 2: Implementation in Table 2 (Payment Criteria) of Part A (Agreement Details).

37.4 DFAT rights

Without limiting any of DFAT's other rights or remedies, on termination of this Agreement:

(a) subject to Clause 35.5 (Consequences of termination) and 37.1(c) (Termination for convenience), DFAT is not obliged to pay to the Recipient any outstanding amount of grant funding under this Agreement; and

(b) DFAT is entitled to exercise any right to recover from the Recipient, including under Clause 11 (Repayment) and Clause 13 (Assets).

37.5 Termination does not affect accrued rights

Termination of this Agreement does not affect any accrued rights or remedies of a Party.

General obligations

38. Survival

The following clauses survive the expiry or termination of this Agreement:

(a) Clause 6 (Use of Funds by Recipient);

(b) Clause 10 (PAYG tax);

(c) Clause 11 (Repayment);

(d) Clause 13 (Assets);

(e) Clause 14.2(Evaluation);

(f) Clause 15 (Reporting);

(g) Clause 17 (Intellectual Property Rights);

(h) Clause 18 (Moral Rights);

(i) Clause 21 (Confidentiality);

(j) Clause 22 (Records, books and accounts);

(k) Clause 23 (Audit and access);

(l) Clause 24 (Acknowledgment and publicity);

(m) Clause 26 (Indemnity);

(n) Clause 27 (Insurance);

(o) Clause 29 (Prohibited Dealings);

(p) Clause 32 (Fraud);

(q) Clause 33 (Anti-Corruption);

(r) Clause 37.4 (DFAT rights); and

(s) Clause 40.2 (Amounts due to DFAT),

together with any provision of this Agreement which expressly or by implication from its nature is intended to survive the expiry or termination of this Agreement.

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39. Notices and other communications

39.1 Service of Notices

A Notice must be:

(a) in writing, in English and signed by a person duly authorised by the sending Party; and

(b) hand delivered or sent by prepaid post, facsimile or email to the recipient's address for Notices specified in Part A (Agreement Details), as varied by any Notice given by the recipient to the sender.

39.2 Effective on receipt

A Notice given in accordance with Clause 39.1 (Service of Notices) delivered by hand, prepaid post or facsimile takes effect when it is taken to be received (or at a later time specified in it), and is taken to be received:

(a) if hand delivered, on delivery;

(b) if sent by prepaid post, on the third Business Day after the date of posting (or on the seventh Business Day after the date of posting if posted to or from a place outside Australia); or

(c) if sent by facsimile, when the sender's facsimile system generates a message confirming successful transmission of the entire Notice unless, within one Business Day after the transmission, the recipient informs the sender that it has not received the entire Notice,

but if the delivery, receipt or transmission is not on a Business Day or is after 5.00pm (AEST) on a Business Day in the place where the Notice is taken to be received, the Notice is taken to be received at 9.00am (AEST) on the next Business Day in the place where the Notice is taken to be received.

39.3 Notices by email

(a) A Notice relating to a matter under Clause 35.4 (Termination), Clause 36 (Dispute Resolution) or Clause 37 (Termination) must not be sent by email.

(b) Subject to Clause 39.3(c) (Notices by email) below, a Notice given in accordance with Clause 39.1 (Service of Notices) above delivered by email is taken to be received on the first to occur of:

(i) receipt by the sender of an email acknowledgement from the recipient's information system showing that the notice has been delivered to the email address specified in the recipient's address for Notices specified in Part A (Agreement Details) as varied by any Notice given by the recipient to the sender;

(ii) the time that the notice enters an information system which is under the control of the recipient; and

(iii) the time that the notice is first opened or read by the intended addressee.

(c) If the sender receives an out of office reply that states the recipient is out of the office until a later date, the Notice will only be taken to be given on that later date. If the result is that a Notice would be taken to be given or made on a day that is not a Business Day in the place to which the Notice is sent or is after 5.00pm (AEST) on a Business Day in the place where the Notice is sent, it will be taken to have been duly given or made at the start of business on the next Business Day in that place.

40. Miscellaneous

40.1 No security

The Recipient must not without the prior written consent of DFAT use any of the following as any form of security for the purpose of obtaining or complying with any form of loan, credit, payment or other interest, or for the preparation of, or in the course of any litigation:

(a) the Funds;

(b) this Agreement or any of DFAT's obligations under this Agreement; or

(c) any Assets or Intellectual Property Rights in Agreement Material.

40.2 Amounts due to DFAT

(a) Without limiting any other of DFAT's rights or remedies, any amount owed or payable to DFAT (including by way of refund), or which DFAT is entitled to recover from the Recipient, under this Agreement will be recoverable by DFAT as a debt due and payable to DFAT by the Recipient.

(b) DFAT may set-off any money due for payment by DFAT to the Recipient under this Agreement against any money due for payment by the Recipient to DFAT under this Agreement or a Related Agreement.

40.3 Variation

No agreement or understanding varying or extending this Agreement is legally binding upon either Party unless the agreement or understanding is in writing in the form of a deed of amendment and signed by both Parties.

40.4 Approvals and consents

Except where this Agreement expressly states otherwise, a Party may, in its discretion, give conditionally or unconditionally or withhold any acceptance, approval or consent under this Agreement.

40.5 Assignment and novation

The Recipient may only assign its rights or novate its rights and obligations under this Agreement with the prior written consent of DFAT.

40.6 Costs

Each Party must pay its own costs of negotiating, preparing and executing this Agreement.

40.7 Counterparts

This Agreement may be executed in counterparts. All executed counterparts constitute one document.

40.8 No merger

The rights and obligations of the Parties under this Agreement do not merge on completion of any transaction contemplated by this Agreement.

40.9 Entire agreement

This Agreement constitutes the entire agreement between the Parties in connection with its subject matter and supersedes all previous agreements or understandings between the Parties in connection with its subject matter.

40.10 Further action

The Recipient must do, at its own expense, everything reasonably necessary (including executing documents) to give full effect to this Agreement and any transaction contemplated by it.

40.11 Severability

A term or part of a term of this Agreement that is illegal or unenforceable may be severed from this Agreement and the remaining terms or parts of the terms of this Agreement continue in force.

40.12 Waiver

Waiver of any provision of, or right under, this Agreement:

(a) must be in writing signed by the Party entitled to the benefit of that provision or right; and

(b) is effective only to the extent set out in any written waiver.

40.13 Relationship

(a) The Parties must not represent themselves, and must ensure that their officers, employees, agents and Subcontractors do not represent themselves, as being an officer, employee, partner or agent of the other Party, or as otherwise able to bind or represent the other Party.

(b) This Agreement does not create a relationship of employment, agency or partnership between the Parties.

40.14 Governing law and jurisdiction

This Agreement is governed by the law of the Australian Capital Territory, and each Party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of the Australian Capital Territory.

40.15 False or misleading information

The Recipient acknowledges that giving false or misleading information is a serious offence.

40.16 No reliance

The Recipient:

(a) acknowledges that DFAT is not liable for any advice, comments, consultation, assistance, information or material made available by DFAT before the Commencement Date in connection with the Recipient applying for grant funding;

(b) acknowledges that the Information may not be accurate or complete and that the Recipient is responsible for making its own enquiries;

(c) warrants that it has not, in deciding whether or not to enter into this Agreement, relied on any Information or representation (whether oral or in writing), other than as expressly set out in this Agreement, or any other conduct of DFAT or any of its Personnel; and

(d) waives any right to make any claims in relation to any loss or damage suffered or incurred, whether directly or indirectly, arising out of or in connection with any use of or reliance on the Information.

40.17 No further grant funding

The Recipient acknowledges that the provision of grant funding under this Agreement for the Activity does not entitle the Recipient to any other or further grants.

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Part C – Activity Proposal

(insert activity proposal)

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