Palladium
MAKE IT POSSIBLE

Annex 5 – Standard Contract Template

SUBCONTRACT

Company	PT Palladium International Indonesia
Subcontractor	Click here to enter text.

CONTENTS

SCHEDULE 1 – SUBCONTRACT PARTICULARS 4
SCHEDULE 2 – THE SERVICES 6
SCHEDULE 3 – SCHEDULE OF RATES AND PAYMENT 8
SCHEDULE 4 – SPECIAL CONDITIONS 10
GENERAL CONDITIONS OF SUBCONTRACT 13
1 Commencement and Term 13
2 Services 13
3 Subcontractor Personnel 14
4 Payment 15
5 Invoices and Taxes 17
6 Head Contract 18
7 Access and Audit 18
8 Warranties and Representations 19
9 Governance, Polices and Procedures 20
10 Project Material 21
11 Intellectual Property 22
12 Procurement and Goods 23
13 Promotion and Publicity 24
14 Confidentiality 25
15 Privacy and Data Protection 25
16 Performance Assessment 26
17 Indemnity and Liability 26
18 Duty of Care 27
19 Insurance 28
20 Early Notification 29
21 Termination 29
22 Force Majeure 32
23 Assignment or Novation by the Company 33
24 Conflict of Interest 33
25 Prevention of Prohibited Acts 34
26 Anticorruption 36
27 Counter-terrorism 36
28 Discrimination, Environment, Gender and Other 37
29 Non-Solicitation and Non-Competition 37
30 Relationship of the Parties 38
31 Notices and Dispute Resolution 38
32 Miscellaneous 39

33 Definitions and interpretation 40

SCHEDULES 1 TO 4 TO THE GENERAL CONDITIONS OF SUBCONTRACT

SCHEDULE 1 – SUBCONTRACT PARTICULARS

Item	Particulars	
1	**Parties**	
1.1	Company Name	PT Palladium International Indonesia
1.2	ABN	N.A.
1.3	Address	Treasury Tower Lantai 59, District 8 SCBD Lot 28, Jl. Jend. Sudirman Kav 52 - 53, Jakarta 12190, Indonesia Phone / No. Telepon +62 21 5033 3140
1.4	Subcontractor Name	Click here to enter text.
1.5	ABN / Company Number / Registration Number	Click here to enter text.
1.6	Address	Click here to enter text.
2	**Representatives**	
	Company	
2.1	Company Representative Name and Title	Click here to enter text.
2.2	Company Representative Email	Click here to enter text.
2.3	Company Representative Phone	Click here to enter text.
	Subcontractor	
2.4	Subcontractor Representative Name and Title	Click here to enter text.
2.5	Subcontractor Representative Email	Click here to enter text.
2.6	Subcontractor Representative Phone	Click here to enter text.
3	**Additional Contacts**	
	Company	
3.1	Name and Title	Click here to enter text.
3.2	Email	Click here to enter text.
3.3	Phone	Click here to enter text.
3.4	Name and Title	Click here to enter text.
3.5	Email	Click here to enter text.
3.6	Phone	Click here to enter text.
	Subcontractor	
3.7	Name and Title	Click here to enter text.
3.8	Email	Click here to enter text.
3.9	Phone	Click here to enter text.

3.10	Name and Title	Click here to enter text.
3.11	Email	Click here to enter text.
3.12	Phone	Click here to enter text.
4	**Project Details**	
4.1	Project Name	Click here to enter text.
4.2	Client Name	Click here to enter text.
4.3	Head Contract - Date	Click here to enter text.
4.4	Head Contract - Parties	Click here to enter text.
4.5	Partner Country	Click here to enter text.
5	**Agreement Details**	
5.1	Agreement Number	Click here to enter text.
5.2	Term Start Date	Click here to enter text.
5.3	Term End Date	Click here to enter text.
5.4	Total Agreement Sum (including reimbursable expenses)	Click here to enter text. ☐ Total Agreement Sum is exclusive of VAT/GST or any similar sales tax.
5.5	Payment Method	Choose an item.
5.6	Agreement Currency	Australian Dollars
5.7	Records Retention Period	Seven years after termination or expiration of this Agreement. Other – If other, please specify: Click here to enter text.
6	**Insurance – Clause 19**	
	Type	Level of Cover Required
6.1	Public Liability / General Liability	
6.2	Professional Indemnity Insurance Amount (all sums in AUD)	
Level	Value of Total Agreement Sum	Level of Cover Required (higher of)
1	0 – 10,000	100,000 or 10 times Total Agreement Sum
2	10,001 – 25,000	200,000 or 10 times Total Agreement Sum
3	25,001 – 100,000	500,000 or 5 times Total Agreement Sum
4	100,001 – 250,000	1,000,000 or 5 times Total Agreement Sum
5	250,001 – 500,000	2,000,000 or 4 times Total Agreement Sum
6	500,000 – 1,500,000	4,000,000 or 3 times Total Agreement Sum
7	Over 1,500,000	Approval required from Project Director and Contracts & Compliance

SCHEDULE 2 – THE SERVICES

1. Description of Services

The Company hereby appoints the Subcontractor, and the Subcontractor hereby agrees, to execute and complete the construction works as described below (the "Works"):

Katalis 2.0 Office-Fit Out Services

2. Responsibilities of the Subcontractor

The Contract shall consist of the following documents, which shall be interpreted in the order of precedence set out below:

This Contract for Construction Works (Office Fit-Out)

- The Design, Drawing and Specifications as Annex 2
- The Drawings issued with the Invitation to Tender, including:
- Drawing No. [ ], dated [ ]

  and any further drawings or details issued by the Company or its Authorised Representative for clarification of the Works during execution.
- The priced Bill of Quantities (including Daywork Rates) as Annex 3, dated [ ], for the purposes of valuation under Clause 4.

2.1 Subcontractor Deliverables

- The Company r or its Authorised Representative shall provide not less than seven (7) days' written notice prior to the date of handover of the Site. The Subcontractor shall commence the Works within five (5) days following such handover.
- The Subcontractor agrees to execute and to complete the Works as described in the documents listed under Clause 2 with due care and diligence in accordance with generally accepted construction practices.
- The Subcontractor shall comply with all applicable laws and regulations of the country in which the Works are performed, including labour laws, building codes, and statutory requirements.
- The Subcontractor shall submit a detailed work programme within [ ] weeks of the Contract Date.
- The Subcontractor shall provide all materials, equipment, plant, and tools necessary for the timely execution the Works.

- The Subcontractor shall provide suitably qualified and experienced personnel and shall properly supervise their performance. The Employer may require the removal of any personnel deemed incompetent, negligent, or engaged in misconduct.

- No part of the Works shall be concealed without the prior written approval of the Employer or its Authorised Representative.

- The Employer may instruct addition to the Works. No additional works shall be implemented without a prior written instruction.

- The Employer may require testing of materials or workmanship at any time. The Subcontractor shall provide all necessary assistance, and the costs shall be borne by the Subcontractor unless otherwise agreed.

- The Subcontractor shall keep the Site clean, safe, and free from obstructions and shall leave the Site in a clean and orderly condition upon completion.

- The Subcontractor shall treat all information relating to this Contract as confidential and shall not disclose it without prior written approval.

2.2 Subcontractor Outputs

<<If no Outputs, insert 'Not Applicable'>>

2.3 Subcontractor Milestones

Milestone Number and Date	Description of Milestone
Click here to enter text.	Click here to enter text.
Click here to enter text.	Click here to enter text.
Click here to enter text.	Click here to enter text.

3. Approved Subcontractor Personnel List

Name	Role/Position/Input
<<Enter as many names as needed here>>	<<Enter corresponding positions here>>

4. Responsibilities of the Company

<<Insert 'None' if there are no specific responsibilities for the Company in terms of the Services>>

SCHEDULE 3 – SCHEDULE OF RATES AND PAYMENT

1. Rates

1.1. For rate or time and consumables contracts

☐ Applicable
☐ Not applicable

ITEM	PARTICULARS			
1. Invoice issue	1.1 Invoices for Services will be issued on a monthly basis for each input, at the end of each month.			
2. Total Input and Daily Rate for Subcontractor Personnel	Name	Rate	Max. No. of days or months	Max Amount Payable
	Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.
	Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.

- The Employer shall pay the Contractor a lump sum amount of:
  (Currency) [ ]
  (In words): [ ]

  for the full execution of the Works.

The Contract Price includes all obligations described in the Contract Documents. Additional Works shall only be paid where instructed in writing.

- Any additional work shall result in an adjustment to the Contract Price, based on the Bill of Quantities, Unit Rates, or Daywork Rates.
- Where no applicable rates exist, new rates shall be agreed in advance. In the absence of agreement, the Company shall determine reasonable rates.
- Applicable taxes shall be invoiced in accordance with law and reimbursed by the Company.

1.2. For milestone based contracts

☐ Applicable
☐ Not applicable

ITEM	PARTICULARS
1. Invoice issue	1.1 Invoices will be issued on completion of the milestones listed below in accordance with the terms of this Agreement.
2. Milestone Number (in accordance with Schedule 2 Paragraph 2.3)	**Amount**
Click here to enter text.	Click here to enter text.
Click here to enter text.	Click here to enter text.

Click here to enter text.	Click here to enter text.

- An advance of 10% shall be paid against submission of an acceptable bank guarantee (Annex 4 – Advance Payment Guarantee). the Contractor shall receive an advance payment of % of the Contract Price =

- Payments shall be made based on progress of the Works.

%
%
%

- Invoices shall be submitted in duplicate and include Contract and Project references.

- An amount of 10 % of the total payment on account shall be withheld by the Employer as Retention Money.

- Upon Taking-Over, payment shall be made less five percent (5%) retention, which shall be released after the Defects Liability Period or upon submission of a Defects Liability Guarantee (Annex 5)

1.3. Particulars applicable to both daily rate or time and consumables contracts and milestone based contracts:

ITEM	PARTICULARS
1. Input Term Condition	1.1 The Company is not obliged to pay the maximum number of days if they are not worked for whatever reason.
2. Per Diems/Subsistence	☐ Per Diem payable ☐ Per Diem not payable Per Diem Rate: Click here to enter text. ☐ Subsistence payable

	☐ Subsistence not payable 2.1 Detailed rules and requirements for claiming Per Diems/Subsistence payments are contained in any Operations Manual for the Project (which will be made available to the Subcontractor). 2.2 Per Diems do not require production of receipts. 2.3 Claims for subsistence payments do require production of receipts.
3. Travel and other Project related costs and expenses	3.1 Subject to the Subcontractor complying with all Project rules and procedures relating to costs and expenses, the following costs and expenses are fully paid for by the Company and: ☐ are included in the Total Agreement Sum; or ☐ are in addition to the Total Agreement Sum: ☐ International Air Travel ☐ Domestic Air Travel ☐ Other ☐ Other ☐ Other
4. Conditions for recovery of reimbursable expenses	4.1 The rules and procedures for recovery of reimbursable expenses are set out in any Operations Manual for the Project. 4.2 All travel and accommodation is to be booked and paid through the Company (unless otherwise agreed in writing). 4.3 Unless otherwise set out in any Operations Manual, all reimbursable expenses must be approved in advance in writing by the Company.

2. Claims for Payment

2.1. All claims for payment must be made to:

2.2. Tax invoices should be sent to:

Click here to enter name, title and email address

2.3. Invalid invoices will be returned to the Subcontractor.

N.A.

SCHEDULE 4 – SPECIAL CONDITIONS

1. These special conditions amend the standard general conditions of subcontract to the extent stated in the special conditions. To the extent there is any inconsistency between the general conditions and these special conditions, these special conditions will prevail.

2. **Head Contract**

   2.1. The Head Contract Terms and Conditions set out below are to be complied with by the Subcontractor as if it were the Subcontractor to the Principal in accordance with the Head Contract:

<<INSERT CLIENT SPECIAL CONDITIONS / HEAD CONTRACT PROVISIONS HERE. INCLUDE ANY DFAT POLICIES THAT NEED TO BE COMPLIED WITH. IF NOT APPLICABLE TYPE "NOT APPLICABLE">>

3. SPECIAL CONDITIONS

TAKING-OVER AND DEFECTS LIABILITY

3.1 The Employer shall issue the Taking-Over Certificate within three (3) weeks after request, provided the Works are satisfactorily completed.

If the Works have been completed except for minor faults or missing items, the Employer or his Authorized Representative shall include a statement in the Taking-Over Certificate, listing all faults and defects, missing items or outstanding works to be completed, including the date when all rectification and finishing works shall be completed.

3.2. The Defects Liability Period shall be six (6) months from Taking-Over.

3.3. The Contractor shall remedy defects promptly. Rectified works shall be subject to a renewed defects liability period. For these rectifications a new defects liability period shall start on their day of completion.

3.4. If the Contractor fails to remedy defects, the Employer shall be entitled to either make a deduction, claim damages or, giving four (1) week notice to the Contractor employ another contractor to execute the works required for rectification and to deduct all expenses arising thereon or incidental thereto from the moneys retained.

TIME FOR COMPLETION AND DELAY DAMAGES

3.5. The Contractor shall complete the Works within [ ] days from Site handover and shall request issuance of the Taking-Over Certificate at least one (1) week prior to completion.

3.6. If the Contractor fails to complete on time, delay damage shall apply at a rate of 0.1% of the Contract Price per day, capped at 5%.

3.7. Payment of delay damages shall not relieve the Contractor of its obligations.

AUTHORISED REPRESENTATIVE

3.8. The Company shall appoint an Authorised Representative to supervise the Works and exercise the Employer's rights under this Contract:

[Insert details]

LIABILITY AND INSURANCE

3.9. The Contractor shall be liable for all damages arising from its performance.

3.10. Subcontracting requires prior written consent. The Contractor remains fully responsible.

3.11. The Contractor shall maintain adequate insurance at its own cost.

TERMINATION

3.12. The Employer may terminate the Contract in whole or in part for individual parts of the Works.

3.13. If due to Contractor default, the Employer may recover damages and pay only for usable completed work.

3.14. If not due to Contractor default, the Contractor shall be paid for completed Works and unavoidable costs.

DISPUTE RESOLUTION

3.15. Any dispute shall be finally settled in accordance with the General Conditions of the Subcontract, Clause 31 – Notice and Dispute Resolution.

[SCHEDULE 5 – INSERT OTHER SCHEDULE AS REQUIRED. IF NOT APPLICABLE, DELETE]

Execution and Date

Executed as an agreement.

Signed by **COMPANY** by its duly authorized officer in the presence of:

Signature of Authorized Officer

Click here to enter text.

Signature of witness

Full Name of Authorized Officer

Click here to enter text.

Click here to enter text.

Name of witness

Office held

Click here to enter text.

Date

Signed by **SUBCONTRACTOR** by its duly authorized officer in the presence of:

Signature of Authorized Officer

Click here to enter text.

Signature of witness

Full Name of Authorized Officer

Click here to enter text.

Click here to enter text.

Name of witness

Office held

Click here to enter text.

Date

ANNEXES

- Annex 1 – General Conditions of Subcontract
- Annex 2 – Final Drawing, Design and Specifications
- Annex 3 – Bill of Quantity
- Annex 4 – Advance Payment Guarantee
- Annex 5 – Defects Liability Guarantee
- Annex 6 – Taking-Over Certificate
- Annex 7 – Handover Certificate

Palladium
MAKE IT POSSIBLE

GENERAL CONDITIONS OF SUBCONTRACT

BACKGROUND

A This Subcontract (Agreement) is between the Company and the Subcontractor (the Parties). The details of the Parties are set out in Item 1 of the Subcontract Particulars set out in Schedule 1.

B The Company provides services to the Client in relation to the Project in accordance with the Head Contract.

C The Subcontractor has represented that it has the necessary expertise and skills to assist the Company and has offered to perform the Services set out in this Agreement, and the Company has accepted the offer of the Subcontractor to provide the Services to the Company.

D. The Company is liable to the Client to complete and manage the Project in accordance with the Head Contract.

E The Services are an essential and integral part of the services required for the Project.

GENERAL CONDITIONS

1 Commencement and Term

1.1 This Agreement commences once executed by both Parties on the Term Start Date set out in Item 5.2 of Schedule 1 the Subcontract Particulars and continues for the Term or:

1.1.1 until all the Services have been completed by the Subcontractor; or

1.1.2 this Agreement is terminated,

except for any clauses that survive termination as set out in Clause 32.10 .

2 Services

2.1 The Subcontractor will provide the Services during the Term of this Agreement to the satisfaction of the Company.

2.2 Where any part of the Services are approved by the Client that part of the Services will also be deemed to be to the satisfaction of the Company.

2.3 In performing the Services the Subcontractor will:

2.3.1 notify the Company as soon as it becomes aware of any event, issue or circumstances which may adversely affect the performance of the Services;

2.3.2 comply with and ensure its Personnel comply with the terms, conditions and documents set out or referred to in this Agreement;

2.3.3 assist the Company generally with its obligations to the Client, including (without limitation) by promptly providing information required to be given by the Company to the Client in accordance with Head Contract or any other associated document (including any Client code of conduct);

2.3.4 in performing its obligations under this Contract, not embarrass the Client, the Company or the Project, or otherwise bring the Client, the Company or the Project into disrepute by engaging in any act or omission which is reasonably likely to diminish:

a) the trust that the public places in the Client, or

b) the reputation of the Company or the Project, regardless of whether or not the act or omission is related to the Subcontractor's obligations under this Agreement; and

2.3.5 comply with, and ensure its Personnel comply with, all Legislative Requirements affecting the performance of the Services, including Data Protection Legislation and all Legislative Requirements, official protocols and procedures of the Partner Country, the Subcontractor's country of registration and where the Services are provided (if different).

2.4 If unsatisfied with the quality or any other aspect of any part of the Services or any Project Material because the Services or Project Material do not comply with this Agreement (including without limitation Schedule 2), the Company may, at its sole discretion, amend or reject any part of the Services or Project Material or request amendment by the Subcontractor and the Company will give the reasons for the rejection or request for amendment. If required to do so by Company, the Subcontractor will correct or amend that part of the Services or the Project Material, at its own cost, within the time period that is specified by the Company in writing which will be a reasonable time period under the circumstances.

2.5 All contact, communication, and dealings with the Client and its representatives in relation to the Project will be through the Company and not directly through the Subcontractor or any of its Personnel unless the Company agrees otherwise with the Subcontractor in writing.

2.6 Where this Agreement is terminated prior to the completion of the Services (for whatever reason) the Subcontractor will supply all necessary information and explanation required by the Company in relation to the Services provided and any software used by the Subcontractor to enable the Company to use and complete the Services.

3 Subcontractor Personnel

3.1 In performing the Services the Subcontract will:

3.1.1 ensure its Personnel exercise the highest standard of Good Industry Practice;

3.1.2 ensure its Personnel are of good character;

3.1.3 when necessary, obtain at its cost appropriate visas and work permits for its Personnel and ensure that correct visas and work permits are in place whenever its Personnel are in the Partner Country or Countries or otherwise performing the Services;

3.1.4 ensure its Personnel are adequately briefed, understand the environment and culture of the Partner Country or Countries and will observe all laws and respect all religions and customs of that Country;

3.2 The following provisions apply in connection with the Subcontractor's Personnel:

3.2.1 The Subcontractor will ensure the persons in the Personnel List set out in Schedule 2 perform the Services in accordance with the inputs set out in Schedule 2 and the terms and conditions of this Agreement.

3.2.2 The Subcontractor will not vary the Personnel List or replace anyone on the Personnel List without the Company's prior written approval, which will not to be unreasonably withheld.

3.2.3 All Personnel will be vetted in accordance with the Good Industry Practice and the requirements of the Business Partner Code of Conduct.

3.2.4 If a person in the Personnel List is unable for whatever reason to complete their engagement with the Subcontractor or terminates their engagement with the Subcontractor, the Subcontractor will as soon as possible replace that person at its own cost with a person of at least equivalent experience, ability and expertise approved in writing by the Company (whose approval will not to be unreasonably withheld) and, if required by the terms of the Head Contract, also approved in writing by the Client.

3.2.5 The Company, whether in accordance with a direction by the Client or in its own discretion, may direct the Subcontractor, at the Subcontractor's cost, to remove any person from the Project or from performing the Services. The Subcontractor accepts that the Company may not be in a position to provide reasons for this direction, and the Client and the Company will not be liable for any claim or costs in connection with the removal.

3.2.6 The Subcontractor, by engaging Personnel to perform part(s) of the Services, will not be relieved from any of its liabilities or obligations under this Agreement and will remain responsible for all Personnel and all work which is performed by them.

3.2.7 The Subcontractor and its Personnel will not represent themselves as either the Client or the Company.

4 Payment

4.1 The total sum to be paid to the Subcontractor for the Services will not exceed the Total Agreement Sum plus GST/VAT if any unless already included in the Total Agreement Sum as indicated in Item 5.4 of Schedule 1 the Subcontract Particulars.

4.2 All reimbursable expenses that are to be reimbursed must be pre-approved in writing by the Company. No costs that are not pre-approved in writing will be reimbursed. In addition,

for reimbursement, a valid expense claim must be provided accompanied by full supporting documentation.

4.3 Payment will be made in accordance with the Payment Method set out in Item 5.5 of Schedule 1 the Subcontract Particulars.

4.4 All monetary amounts in this Agreement are in the Agreement Currency set out in Item 5.6 of Schedule 1 the Subcontract Particulars. The Subcontractor will be entirely responsible for all risks arising out of currency fluctuations associated with this Agreement.

4.5 Payments to the Subcontractor's Personnel for salary, allowances, bonuses, taxes, insurances, superannuation, non-Working Days and all other overheads and expenses of whatsoever nature that may be incurred including, but without limitation, payment for vaccinations and malaria tablets and similar, except those otherwise specifically provided for in this Agreement, are the sole responsibility of the Subcontractor.

4.6 Unless otherwise specified by the Company in writing, timesheets will be submitted in accordance with Project procedures for each of the Subcontractor's Personnel and on the dates and for the periods required by the Company. Additional details may be provided in any Operations Manual for the Project.

4.7 The Subcontractor will not be entitled to payment of an invoice unless and until:

4.7.1 The Deliverable and/or Milestone for which payment is claimed has been achieved or completed in accordance with the terms of this Agreement and also to the satisfaction of the Company and the Client; and

4.7.2 All Project Material (and timesheets, if applicable) for that part of the Services for which payment is claimed has been submitted to and approved by the Company.

4.8 Subject to this Agreement, the Company will pay the Subcontractor within 30 days of:

4.8.1 receipt of a correctly rendered invoice as described Clause 5.2;

4.8.2 the Company being satisfied that the terms and conditions set out in Clause 4.7 have been met.

4.8.3 Any payment by the Company is payment on account only and not evidence of the Subcontractor's compliance with this Agreement, an admission of liability, or acceptance by the Company of the Services.

4.9 The Subcontractor consents to the Company deducting from moneys otherwise due to the Subcontractor any overpayment previously made, any moneys due from the Subcontractor and any claim to money which the Company may have against the Subcontractor, whether for damages or otherwise.

4.10 Where it is found that any overpayment has been made to the Subcontractor the Company may also require reimbursement of the overpayment within 21 days of written demand.

4.11 The Subcontractor must provide the Company with the details of a bank account that accepts deposits in the Agreement Currency. Where the Agreement Currency and the Subcontractor's account currency differ, the exchange rate will be that of the date of the transfer.

5 Invoices and Taxes

5.1 Unless otherwise provided in this Agreement, all taxes, duties, and charges imposed or levied in connection with the performance of this Agreement will be borne by the Subcontractor.

5.2 The Subcontractor must:

5.2.1 send a tax invoice for payment for the Services performed within 5 Working Days of the times for payment set out in Paragraphs 1 or 1.2 of Schedule 3 (whichever is applicable to the Services);

5.2.2 unless otherwise advised by the Company address all tax invoices to the Company as set out in Paragraph 2 of Schedule 3;

5.2.3 ensure the tax invoice:

a) if relevant, is in the form of a valid Tax Invoice under the GST Act;

b) is accompanied by supporting documentation as reasonably required by the Company;

c) states the description of the Services performed including any Deliverables and/or Milestones that have been achieved;

d) states the amount claimed and it is correctly calculated;

e) is in Agreement Currency or converted into the Agreement Currency at the exchange rate incurred by the Subcontractor at the time of making the payment;

f) states the amount of GST or VAT payable by the Company and that amount is shown as a separate item on the invoice together with the method of calculation.

5.3 The Subcontractor will indemnify the Company on a continuing basis against any liability, including any interest, penalties or costs incurred, which is levied, demanded or assessed on the Company at any time (whether before or after the making of a demand in accordance with this indemnity) in respect of the Subcontractor's failure to account for or to pay any GST or VAT relating to payments made to the Subcontractor under this Agreement. Any amounts due will be paid in cleared funds by the Subcontractor to the Company not less than five (5) Working Days before the date upon which the tax or other liability is payable by the Company.

5.4 The Subcontractor acknowledges that the Company will withhold any taxes which it is required by Legislative Requirements to withhold.

5.5 The Subcontractor acknowledges that it has not received any taxation advice from the Company and understands that all its taxation obligations remain the responsibility of the Subcontractor.

5.6 The Company may require the Subcontractor to provide additional information to assist the Company to determine whether an amount included in any invoice is payable. Where any additional information is requested, the payment term will be 30 days after the Subcontractor has provided the additional information to the Company's satisfaction.

6 Head Contract

6.1 The Subcontractor acknowledges that the Head Contract requires that this Agreement adequately protects the interests of the Client and ensures compliance with the Client's policies and other requirements.

6.2 The Subcontractor accepts and will follow and comply fully with and will assist the Company in complying fully with all the Client Terms and Conditions and associated documents (as set out and referenced in Schedule 4) in relation to itself and the Services or any work undertaken or actions taken in accordance with this Agreement and insofar as those terms and conditions are applicable to the Subcontractor and the Services and in addition to the other terms of this Agreement.

6.3 Where the Client Terms and Conditions are amended or updated at any time, the amended or updated version will apply to this Agreement provided the Company has provided the Subcontractor with a copy of the amendment.

6.4 The Subcontractor will ensure that all its employees, Subcontractors, Subcontractors, and Personnel generally are bound by and comply with the terms of this clause 6.

6.5 The Subcontractor expressly acknowledges the right of the Client to:

6.5.1 enforce any of the obligations of the Subcontractor under this Agreement against the Subcontractor directly or indirectly;

6.5.2 exercise all rights of the Client in the Head Contract in relation to this Agreement; and

6.5.3 exercise all the rights of the Company set out in this Agreement.

7 Access and Audit

7.1 The Subcontractor and its Personnel will at all times:

7.1.1 keep accurate, systematic and up to date Records, including all invoices and other financial data and paperwork, relating to the performance of its obligations under this Agreement and in accordance with all requirements of the Head Contract;

7.1.2 retain copies of all Records for the Records Retention Period after termination or expiration of this Agreement;

7.1.3 allow all persons authorised in writing by the Company or the Client full access, at reasonable times, to premises occupied by the Subcontractor where the Services are being carried out, or where Records or Project Material are held or are available, and will permit those persons to inspect, audit, take extracts from and copy any information, Project Material or Records relating to the Services or the Project or this Agreement generally.

7.1.4 provide all reasonable assistance requested by the Company or the Client:

a) for the performance of an inspection or audit set out in Clause 7.1.3, or any administrative or statutory review or audit relating to this Agreement, the Head Contract, the Goods and/or the Services;

b) in relation to an audit of the Company by the Client; or

c) in relation to any audit described in Clause 7.1.3.

7.2 The Parties agree that they will bear their own respective costs and expenses incurred in respect of compliance with their obligations under this Clause 7, unless the audit reveals a default by the Subcontractor in which case the Subcontractor will reimburse the Company for its reasonable costs incurred in relation to the audit.

7.3 The Subcontractor will provide a copy of the Subcontractor's audited accounts to the Company on request, or annually, in the absence of a request from the Company.

8 Warranties and Representations

8.1 The Subcontractor warrants, represents and undertakes for the duration of the Term that:

8.1.1 it is validly incorporated, organised and subsisting in accordance with the Legislative Requirements;

8.1.2 it has full capacity and authority to enter into and to perform this Agreement;

8.1.3 this Agreement is executed by its duly authorised representative;

8.1.4 it has and will continue to have all necessary consents and regulatory approvals (e.g. from the Regulatory Bodies) to enter into this Agreement;

8.1.5 there are no actions, suits or proceedings or regulatory investigations before any court or administrative body or arbitration tribunal pending or, to its knowledge, threatened against it or any of its Related Bodies Corporate that might affect its ability to perform its obligations under this Agreement;

8.1.6 its execution, delivery and performance of its obligations under this Agreement will not constitute a breach of any Legislative Requirement or obligation applicable to it and will not cause or result in a default under any agreement by which it is bound;

8.1.7 its obligations under this Agreement constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms subject to applicable bankruptcy, reorganisation, insolvency, moratorium or similar Legislative Requirements affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or law);

8.1.8 all written statements and representations in any written submissions made by the Subcontractor as part of the procurement process, including without limitation its response to any due diligence questionnaire, Client or Company standard selection questionnaire and/or invitation to tender (if applicable), its tender, proposal and/or any other documents submitted remain true and accurate except to the extent that those statements and representations have been superseded or varied by this Agreement or to the extent that the Subcontractor has otherwise disclosed to the Company in writing prior to the date of this Agreement;

8.1.9 it has all necessary rights in and to any Licensed Software, the Third Party IPR, the Subcontractor Pre-Existing IPR and any other materials made available by the

Subcontractor (and/or any sub-sub-Subcontractor) to the Company which are necessary for the performance of the Subcontractor's obligations under this Agreement and/or the receipt of the Services by the Company;

8.1.10 it is not subject to any contractual obligation, compliance with which is likely to have a material adverse effect on its ability to perform its obligations under this Agreement;

8.1.11 no proceedings or other steps have been taken and not discharged (nor, to the best of its knowledge, are threatened) for the winding up of the Subcontractor or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of the Subcontractor's assets or revenue;

8.1.12 at the date this Agreement is executed by the Subcontractor no conflict of interest exists or is likely to arise in the performance of its obligations under this Agreement and that it will use its best endeavours to ensure that no conflict of interest arises in relation to the performance of any aspect of this Agreement; and

8.1.13 its Personnel have the necessary experience, skill, knowledge, qualifications, expertise and competence to perform the Services.

8.1.14 the representations and warranties set out in this clause will be deemed to be repeated by the Subcontractor on the Term Start Date (if later than the date of execution of this Agreement) by reference to the facts then existing.

8.2 The representations and warranties set out in this Clause 8 will be construed as a separate representation and warranty and will not be limited or restricted by reference to, or inference from, the terms of any other representation, warranty or any other undertaking in this Agreement.

8.3 If at any time the Subcontractor becomes aware that a representation or warranty given by it under this Clause 8 has been breached, is untrue or is misleading, it will immediately notify the Company of the relevant occurrence in sufficient detail to enable the Company to make an accurate assessment of the situation.

9 Governance, Polices and Procedures

9.1 The Subcontractor is to read the following Company polices available at http://www.thepalladiumgroup.com/policies:

9.1.1 Business Partner Code of Conduct

9.1.2 Child Protection Guidelines

9.2 The Subcontractor acknowledges that it has read, acknowledged and will comply with the Company policies set out Clause 9.1.

9.3 The Subcontractor confirms that it has been made aware of, has read and understood and will comply with in full all Client policies, procedures and conditions listed or referred to in Schedule 4, if any.

9.4 Where the Subcontractor is notified of any changes in policies, procedures and conditions it will ensure that its Personnel are duly updated.

9.5 The Subcontractor will also comply with and follow any Standard Operating Procedures and Guidelines, Procedural Manuals, Safety and Security Plans, or any other policies and procedures for the Project when required to do so by the Company.

9.6 The Subcontractor will immediately inform the Company if the Subcontractor becomes aware of any information indicating that any action in breach of the terms of this Clause 9 has been committed or may possibly be committed.

9.7 The Subcontractor will include the terms and requirements of this Clause 9 in all subcontracts or other contracts the Subcontractor makes in connection with the Services to ensure that all individuals and other entities contracted by the Subcontractor comply with the terms of this Clause 9.

9.8 The Company will be entitled to require the Subcontractor to provide reasonable evidence that it is complying with the obligations in this Clause 9.

10 Project Material

10.1 The Subcontractor will:

10.1.1 ensure the safekeeping and maintenance of the Project Material including being responsible for preserving its integrity and preventing its corruption or loss;

10.1.2 not delete or remove any proprietary notices contained within or relating to Project Material;

10.1.3 ensure that the Project Material is supplied to the Company in the format(s) specified by the Company;

10.1.4 not store, copy, disclose, or use Project Material except as necessary for the performance by the Subcontractor of its obligations under this Agreement or as otherwise expressly authorised in writing by the Company;

10.1.5 use the latest versions of anti-virus definitions available from an industry accepted anti-virus software vendor to check for and delete malicious software from its ICT environment;

10.1.6 notwithstanding Clause 10.1.5, if malicious software is found, cooperate with the Company to reduce the effect of the malicious software and, particularly if malicious software causes loss of operational efficiency or loss or corruption of Project Material, assist to mitigate any losses and to restore the Services to their desired operating efficiency. Any costs arising out of the actions of the Parties taken in compliance with the provisions of this Clause 10.1.6 will be borne by the Subcontractor except where the source of the malicious software is shown to be the Company;

10.1.7 perform secure back-ups of all Project Material and will ensure that up-to-date back-ups are stored at a secondary location, in accordance with any requirements of the Head Contract, and also in accordance with any other similar rules or procedures of the Company confirmed in writing to the Subcontractor. The Subcontractor will ensure that the back-ups are available to the Company at all times, upon request;

10.1.8 ensure that the system on which the Subcontractor holds any Project Material, including back-up data, is a secure system that complies with the requirements of

the Head Contract and any other similar rules or procedures of the Company confirmed in writing to the Subcontractor;

10.1.9 where Project Material is corrupted, lost, or sufficiently degraded so as to be unusable when under the control of the Subcontractor, and on written request from the Company:

a) at the Subcontractor's expense, restore or procure the restoration of the Project Material as soon as practicable but not later than seven (7) days following the written request from the Company; and/or

b) reimburse the Company for all reasonable expenses incurred by the Company in restoring or procuring the restoration of the Project Material.

10.1.10 if at any time the Subcontractor suspects or has reason to believe that Project Material has or may become corrupted, lost or degraded in any way, notify the Company immediately and inform the Company of the remedial action the Subcontractor proposes to take; and

10.1.11 at the expiration or termination of this Agreement, deliver to the Company or as directed by the Company, all Project Material and other property or assets of the Company and the Client, which are in the Subcontractor's possession or under its control.

11 Intellectual Property

11.1 Unless expressly granted elsewhere under this Agreement:

11.1.1 The Company will not acquire any right, title or interest in or to the Intellectual Property Rights of the Subcontractor or its licensors, namely:

a) the Subcontractor Pre-existing IPR; and

b) the Third Party IPR.

11.1.2 The Subcontractor will not acquire any right, title or interest in or to the Intellectual Property Rights of the Company, the Client or their licensors including the:

a) Company Pre-existing IPR or Client Pre-existing IPR;

b) Company or Client Data;

c) Project Material; and

d) Project Name and any rights and interests in it.

11.2 The Subcontractor must obtain all necessary copyright and other Intellectual Property Rights permissions before making any Subcontractor Pre-existing IPR or Third Party IPR available as part of the Services.

11.3 All Project Material will be owned by the Company (or the Client, if directed by the Company).

11.4 To the extent that:

11.4.1 the Subcontractor needs to use any Company Pre-existing IPR, Client Pre-existing IPR or Project Material for the purpose of performing its obligations under this Agreement, the Company grants to the Subcontractor for the Term of this Agreement a limited, revocable, non-exclusive, non-transferable licence to use

any Company Pre-existing IPR, Client Pre-Existing IPR and Project Material solely for the purpose of performing the Services.

11.4.2 it is necessary to enable the Company or the Client to receive the full benefit of the Services or ownership of the Project Material, the Subcontractor grants to the Company and the Client a perpetual, irrevocable, world-wide, royalty free, non-exclusive, assignable licence to use, sub-license, reproduce, adapt, modify and communicate the Subcontractor Pre-existing IPR or Third Party IPR.

11.5 The Subcontractor will promptly notify the Company if it reasonably believes that it will be unable to grant or procure the grant of the licences set out in Clause 11.4.2 and the Subcontractor will provide full details of the adverse effect this may have on the Company or Client's use of the Project Materials.

11.6 Where the Subcontractor is unable to comply with Clause 11.4.2, the Subcontractor will refrain from embedding or integrating any Subcontractor Pre-Existing IPR and/or Third Party IPR with the Project Materials in such a way that could affect the Company or the Client obtaining full benefit of the ownership of those Project Materials, except where the Company has provided express written approval to do so.

11.7 The Subcontractor will, during and after the Term, on written demand, indemnify the Company and the Client against all losses incurred by, awarded against, or agreed to be paid by the Company or Client (whether before or after the making of the demand in accordance with this indemnity) arising from an IPR Claim.

11.8 If an IPR Claim is made or anticipated, the Subcontractor must at its own expense and the Company's sole option, either:

11.8.1 procure for the Company and the Client the rights in Clause 11.4.2 without infringing the IPR of any third party; or

11.8.2 replace or modify the relevant item with non-infringing substitutes with no detriment to functionality of performance of the Services.

11.9 Neither Party will have any right to use any of the other Party's names, logos or trade marks on any of its products or services without the other Party's prior written consent.

12 Procurement and Goods

12.1 To the extent the Services involve procurement of goods, plant, material, equipment or any tangible items (Goods) with funding made available under this Agreement, the Subcontractor will ensure that the procurement will:

12.1.1 be undertaken in accordance with best practice principles of openness, fairness and transparency;

12.1.2 achieve "Value for Money", defined as the optimum combination of whole-life cost and quality to meet requirements in a fully transparent manner (and the procurement may be subject to audit by the Company or the Client);

12.1.3 be carried out using strict due diligence processes that ensure the protection of the Company's and the Client's interests and reputation, with particular emphasis on anti-terrorism, anti-corruption and prevention of fraud throughout the delivery chain; and

12.1.4 be on the basis that the ownership of Goods will vest in the Company or the Client (as advised by the Company), and will be so marked.

12.2 To the extent the Services involve Goods, the Subcontractor warrants that the Goods:

12.2.1 are of acceptable quality, are safe and durable;

12.2.2 are free from defects in design, performance, materials and workmanship;

12.2.3 are fit for all the purposes for which goods of that kind are commonly supplied;

12.2.4 complete with applicable Australian Standards if notified by the Company;

12.2.5 will not be adversely affected in any way by any date-related issue; and

12.2.6 are free of any Encumbrance.

12.3 The Subcontractor must ensure that the Company and the Client obtain the full benefit of any third party warranties available for the Goods.

12.4 Goods may only be used in providing the Services. Personal use of Goods by the Subcontractor or its Personnel is not permitted without Company approval.

12.5 The Subcontractor will keep an up-to-date inventory (Asset Register) of the Goods, their condition and location and make the Asset Register available to the Company immediately on request.

12.6 The Subcontractor is responsible for the security, maintenance and safekeeping of the Goods, including by keeping the Goods in safe and good condition.

12.7 The Subcontractor will notify the Company in writing as soon as the Subcontractor becomes aware of any loss or damage to any item on the Asset Register.

12.8 The Subcontractor will obtain the Company's instructions on the disposal of Goods and comply with those instructions.

13 Promotion and Publicity

13.1 The Subcontractor will not, without prior written approval of the Company, make or issue any Promotional Material except to the extent required by any Legislative Requirement. Prior approval will not be unreasonably withheld.

13.2 The Subcontractor will submit to the Company the request for approval of Promotional Material at least 30 days prior to the intended publication or promotion. If the Company determines that any amendments are necessary to the Promotional Material, the Subcontractor will make these amendments and submit amended Promotional Material to the Company for approval.

13.3 The Subcontractor must ensure that all Promotional Material is accurate and not misleading in any way and complies with all requirements of the Client Terms and Conditions set out in Schedule 4, including in respect of branding.

13.4 If requested, the Subcontractor will collaborate and cooperate with the Company in the preparation of any Promotional Material in accordance with the requirements set out in Schedule 4.

14 Confidentiality

14.1 The Parties acknowledge that during the Term of this Agreement the Parties and their Personnel may become acquainted with or have access to Confidential Information and they agree to maintain the confidence of the Confidential Information and to prevent its unauthorised disclosure to, or use by, any other person, firm, or company. The Parties will ensure compliance with this obligation by their respective Personnel.

14.2 The Parties will not disclose or use any Confidential Information except to the extent that the disclosure or use:

14.2.1 is strictly necessary for the performance of the Services or this Agreement;

14.2.2 is required by a Legislative Requirement (including by the Client to fulfil its statutory obligations and requirements) or is reasonably required for legal proceedings;

14.2.3 is authorised by prior written approval from the Party who owns the Confidential Information; or

14.2.4 already is or comes into the public domain otherwise than through a Party's unauthorised disclosure or that of any of its Personnel.

14.3 The Parties and their Personnel will not use any Confidential Information received otherwise than for the purposes of this Agreement.

14.4 The Parties will only disclose Confidential Information to Personnel who are directly involved in the provision of the Services and who need to know the information and the Parties will ensure that the Personnel are aware of, and will comply with, these obligations and will sign any required confidentiality undertakings provided by the Company or Subcontractor on request.

14.5 The Subcontractor will execute, and will obtain from its Personnel who will have access to Confidential Information of the Client, a written undertaking relating to non-disclosure of that information substantially in the form of the DFAT Deed of Confidentiality.

14.6 If a Party is required to disclose Confidential Information due to Legislative Requirements or legal proceedings, it will provide reasonable notice of disclosure to the other Party.

14.7 The Parties agree that the obligations in this clause apply during the Term and after termination of this Agreement.

15 Privacy and Data Protection

15.1 The Parties agree to take all reasonable steps to ensure the integrity and confidentiality of the Personal Data obtained in accordance with this Agreement.

15.2 The Parties will:

15.2.1 observe the privacy principles in any Data Protection Legislation in Australia, the Partner Country and also the countries of their respective registrations;

15.2.2 comply with any requirements relating to protection of Personal Data set out in the Client Terms and Conditions in Schedule 4;

15.2.3 ensure that they obtain the informed and clear consent of any individual (to whom the Personal Data relates) to disclosure, processing, use or holding by the other party, before it is disclosed, processed, used or held by the other party. To the

extent allowed by the Legislative Requirements, the consent will permit the receiving party to process, use or hold the Personal Data for the Term and any reasonable length thereafter, for the purposes of undertaking or receiving the Services or compliance with this Agreement or any Legislative Requirement;

15.2.4 not disclose, process, use or hold any Personal Data in breach of any Data Protection Legislation; and

15.2.5 indemnify each other and the Client for any Loss due to any breach of any Data Protection Legislation.

15.3 The Parties consent to the holding, processing, and accessing of Personal Data by either Party relating to either Party or its Personnel for all purposes relating to the performance of this Agreement (including, but limited to, transferring the Personal Data to any country or territory) during the Term, the Records Retention Period and any reasonable length of time thereafter.

16 Performance Assessment

16.1 The Subcontractor acknowledges and agrees that the Company or the Client may issue in relation to this Agreement:

16.1.1 Subcontractor performance assessments; and

16.1.2 Subcontractor key personnel performance assessments.

16.2 The Subcontractor will complete, sign and return the Subcontractor performance assessment together with any response within 15 Days of receipt and will ensure that the Subcontractor key personnel performance assessments together with any response any personnel wishes to include are completed, signed and returned within 15 Days of receipt.

17 Indemnity and Liability

17.1 The Subcontractor will indemnify and keep indemnified, hold harmless and defend the Company, and the officers, employees, and agents of the Company, from and against any loss, damages, expenses or costs, including costs of any settlement, arising from any Claim or any Loss suffered or incurred, including personal injury, death, legal costs and expenses, and the cost of time and resources arising from or as a consequence of:

17.1.1 a breach of the terms of this Agreement;

17.1.2 an infringement or alleged infringement of the Intellectual Property Rights of any person, which occurred by reason of the performance or use of the Services;

17.1.3 any third party claims relating to this Agreement except where the claims are made due to a negligent act or omission of the Company;

17.1.4 an infringement or an alleged infringement of Data Protection Legislation, in connection with the Services;

17.1.5 any negligence by the Subcontractor or its Personnel in connection with the Services and/or this Agreement;

17.1.6 a breach of warranty or representation, statutory duty, and/or tortious or illegal acts or omissions by the Subcontractor or its Personnel;

17.1.7 a claim made against the Company by any Subcontractor's Personnel in respect of any breach of the terms of this Agreement or any Legislative Requirements concerning remuneration, income tax, worker's compensation, annual leave, long service leave, pension or superannuation or any award, determination or agreement of a competent industrial tribunal; and/or

17.1.8 any penalty imposed for breach of any Legislative Requirement in connection with the provision of the Services by the Subcontractor.

17.2 The indemnity in Clause 17.1 is reduced to the extent that the Loss or liability is directly caused by the Company, its employees or Subcontractors (except the Subcontractor) as substantiated by the Subcontractor.

17.3 The Subcontractor has responsibility for and indemnifies the Company in respect of any tax, employee pension, and/or social security payments or similar payments whether payable in the Partner Country or elsewhere relating to its Personnel together with any interest or penalties, costs or expenses incurred or arising out of or in connection with any such payments.

17.4 Notwithstanding any other provision of this Agreement to the contrary, neither Party will be liable to the other for any special, indirect, punitive, consequential loss or damage of any kind whatsoever including, but not limited to, loss of profits.

17.5 In the event that the Subcontractor consists of more than one entity, then each of those entities is jointly and severally liable for the performance of the Subcontractor's obligations set out in this Agreement.

18 Duty of Care

18.1 The Subcontractor owes a duty of care to the Subcontractor Personnel and is responsible for the health, safety, security of life and property and general wellbeing of its Personnel and their property and this includes where the Subcontractor Personnel carry out the Services.

18.2 The Subcontractor warrants that it will throughout the Term:

18.2.1 carry out appropriate risk assessments in relation to its delivery of the Services;

18.2.2 provide the Subcontractor Personnel with adequate information, instruction, training and supervision (including a comprehensive induction for the Project);

18.2.3 have appropriate general and emergency procedures in place to enable the Services to be provided whilst at the same time preventing damage to the Subcontractor Personnel's health, safety, security of life and property and general wellbeing.

18.3 The provision of information of any kind whatsoever by the Company or the Client to the Subcontractor will not in any respect relieve the Subcontractor from responsibility for its obligations under this Clause 18. The positive evaluation of the Subcontractor's proposal for the provision of the Services and the award of this Agreement is not an endorsement by the Company of any arrangements which the Subcontractor has made for the health, safety, security of life and property and wellbeing of the Subcontractor Personnel in relation to the provision of the Services.

18.4 The Subcontractor acknowledges that the Company and the Client accept no responsibility for the health, safety, security of life and property and general wellbeing of

the Subcontractor Personnel with regard to the Subcontractor Personnel carrying out the Services under this Agreement.

18.5 The Subcontractor will comply with any directions by the Company where requested to do so by the Company and the Subcontractor will provide training on a continuing basis for all Subcontractor Personnel, in compliance with any Project or Company security plan.

19 Insurance

19.1 The Subcontractor must have and maintain for the Term unless otherwise specified:

19.1.1 Public Liability (or General Liability) with a limit of at least the amount set out in Item 6.1 of Schedule 1 the Subcontract Particulars for each and every claim, which:

a) covers the Subcontractor in respect of liability to the Company and third parties for loss or damage to real or personal property and/or personal injury, illness or death arising from performance of this Agreement; and

b) names the Company as an indemnified party in relation to liability to third parties in respect of any claim for loss or damage to property or death or injury to any person arising out of or as a consequence of any act or omission of the Subcontractor.

19.1.2 Professional Indemnity Insurance with a total aggregate cover of not less than the appropriate Level of Professional Indemnity Insurance as set out in Item 6.2 of Schedule 1 the Subcontract Particulars, which:

a) includes a provision for one automatic reinstatement of the sum insured;

b) will have a Principal's Indemnity clause, and, if required by that clause, name the Company as an indemnified principal in respect of this Agreement; and

c) the Subcontractor must maintain the policy for a period of 7 years from the date that this Agreement expires or is terminated.

19.1.3 Workers Compensation insurance which insures the Subcontractor for any amount it becomes liable to pay under any Legislative Requirements relating to workers' or accident compensation or for employer's liability, including at common law, and where permitted by Legislative Requirements, extend the policy to indemnify the Company for any liability on behalf of the Company for Subcontractor Personnel.

19.1.4 Adequate travel, medical and dental insurance for its Personnel who are engaged to operate outside their country of permanent residence.

19.1.5 Adequate insurance for emergency and medical evacuation for all its Personnel engaged to operate outside their country of permanent residence.

19.2 The Subcontractor will ensure that insurance arrangements made to cover the Subcontractor Personnel, or any person employed or otherwise engaged by the Subcontractor, and in accordance with the Subcontractor's duty of care as referred to in this Clause 18, are reasonable and prudent in all circumstances, including in respect of death, injury or disablement, and emergency medical expenses.

19.3 The Subcontractor will company with the Legislative Requirements of its country of incorporation, where it operates and the Partner Country relating to insurance. It is the

Subcontractor's responsibility to have any required insurances and comply with all Legislative Requirements in respect to all its Personnel. The onus is on the Subcontractor to make itself aware of all insurance requirements and Legislative Requirements.

19.4 In the event of an insurance claim any deductible or excess payment in respect of the relevant insurance policy will be the responsibility of the Subcontractor.

19.5 The Company may request evidence of any insurance policy at any time during the Term and the Subcontractor will provide certificates of currency for each policy within 7 days of the request.

19.6 Failure to maintain all necessary insurance policies will entitle the Company to terminate this Agreement immediately for breach in accordance with Clause 21.

20 Early Notification

20.1 The Subcontractor must immediately notify the Company if the Subcontractor (including the Subcontractor Personnel) or a sub-Subcontractor is:

20.1.1 undergoing or undergoes a change in Control of the Subcontractor's legal entity;

20.1.2 listed on a World Bank List or on a Relevant List;

20.1.3 subject to any proceedings or an informal process which could lead to listing on a World Bank List or listing on a Relevant List;

20.1.4 temporarily suspended from tendering for World Bank contracts by the World Bank, pending outcome of a sanctions process;

20.1.5 temporarily suspended from tendering by a donor of development funding other than the World Bank; and/or

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

20.2 If the Subcontractor becomes aware of any issue that may affect its performance of this Agreement, or its compliance with the terms set out in this Agreement, it must inform the Company immediately.

21 Termination

Termination for breach or Insolvency Event

21.1 The Company may, without prejudice to any other rights which the Company may have, terminate the whole or part of this Agreement by written notice to the Subcontractor, to be effective from the date specified in the notice, if:

21.1.1 an Insolvency Event occurs in relation to the Subcontractor;

21.1.2 the Company is dissatisfied with the Services provided;

21.1.3 other than as set out in Clause 21.1.2 above, the Subcontractor breaches a provision of this Agreement and, if the breach is capable of being remedied, does not remedy the breach within five (5) Working Days (or longer period as determined by the Company in its sole discretion to be reasonable in the circumstances) from the date of written notice by the Company to the Subcontractor requiring the breach to be remedied;

21.1.4 the Subcontractor fails to comply in the performance of this Agreement with legal obligations in the fields of environmental, social or labour Legislative Requirements;

21.1.5 the Subcontractor or its Personnel behave in a way that is fundamentally inconsistent with the conduct of a technical professional including serious misconduct, or conduct in private life or activities outside of the Project that is/are likely to bring the Company, the Client or the Project into disrepute;

21.1.6 the Subcontractor fails to notify the Company in accordance with Clause 20;

21.1.7 the Subcontractor or its Personnel ceases to hold any licence, qualification, approval, authority or consent required for the Subcontractor to comply with its obligations under this Agreement;

21.1.8 the Subcontractor undergoes a change in Control of the Subcontractor's legal entity, which in the Company's reasonable opinion, may adversely affect the Subcontractor's ability to perform the Services;

21.1.9 the Subcontractor, its Personnel or Subcontractors are or become listed on a World Bank or Relevant List or are subject to any proceedings or an informal process that may lead to them becoming so listed;

21.1.10 the Subcontractor does not take appropriate steps to manage and resolve an allegation of child exploitation or abuse, harm or mistreatment of children or other non-compliance (including viewing or accessing child pornography) of the Company's Child Protection Guidelines with respect to this Agreement, including a failure to inform the Company within 24 hours of any allegation of child exploitation or abuse, harm or mistreatment of children or other non-compliance (including viewing or accessing child pornography) of the Child Protection Guidelines in accordance with the Child Protection Guidelines.

21.1.11 the Subcontractor or any of its Personnel is convicted of any offence; or

21.1.12 the Subcontractor provides to the Company a clear indication that it will not or is unable to perform its duties under this Agreement.

21.2 In the event the Company is dissatisfied with the Services provided in accordance with Clause 21.1.2, the following procedure will be followed:

21.2.1 The Company will provide a Notice to the Subcontractor stating the reasons for the dissatisfaction and setting out the actions required by the Subcontractor to remedy the dissatisfaction, and the time in which it must be completed;

21.2.2 Where the dissatisfaction is not subsequently remedied within the time period set out in the Notice the Company will be entitled to confirm termination of this Agreement by further written Notice to the Subcontractor.

21.3 In the event of termination for breach in accordance with Clause 21.1, the Company will:

21.3.1 pay any outstanding invoices that relate to Services already provided in accordance with the terms of this Agreement (whether the invoice is tendered before or after the date of termination).

21.3.2 pay for any work done satisfactorily but not invoiced at the time the Company provides notice of termination on a pro rata basis (i.e. the proportion of the Services satisfactorily completed) but only where the payment is permitted in accordance with the terms of the Head Contract. No payment will be made where

a Milestone is not achieved or a Deliverable has not been submitted or is not satisfactory; and

21.3.3 be entitled to recover from the Subcontractor any Loss incurred by it as a result of the termination including all or a fair proportion, calculated on the basis of satisfactory delivery of Services, of any payment made to the Subcontractor in advance of delivery of the Services to which that payment relates.

Termination or suspension other than for breach or Insolvency Event

21.4 The Company may terminate or suspend the whole or part of this Agreement where a direction is made by the Client, the Head Contract is terminated or suspended, or otherwise at its sole discretion.

21.5 Termination or suspension made in accordance with Clause 21.4 must be made by notice in writing to the Subcontractor and will be effective from the date specified in the notice.

21.6 The lifting of any suspension of this Agreement will only take place if the Client confirms its agreement to the lifting of the suspension or if the Company considers that the reasons for the suspension no longer exist or have been dealt with satisfactorily by the Subcontractor in the reasonable judgement of the Company. The Company will confirm the lifting of any suspension to the Subcontractor in writing.

21.7 In the event of termination or suspension other than for breach or Insolvency Event in accordance with Clause 21.4:

21.7.1 the Subcontractor will be entitled to payment for all work in respect of the terminated or suspended Services completed satisfactorily and in accordance with the terms of this Agreement before the effective date of termination or suspension including Services which have not been invoiced;

21.7.2 in respect of the terminated or suspended Services commenced before but not completed by the effective date of termination or suspension, payment for the work already performed satisfactorily on a pro rata basis but only where the payment is permitted in accordance with the terms of the Head Contract (this will not apply where a Milestone is not achieved or a Deliverable has not been submitted or is not satisfactory); and

21.7.3 the Company will be entitled to recover from the Subcontractor any payment made to the Subcontractor in advance of delivery of the Services where those Services are not delivered due to termination in accordance with this Agreement.

Obligations on termination for whatever reason

21.8 If this Agreement is terminated (or at any time at the request of the Company) the Subcontractor will:

21.8.1 immediately deliver to the Company, without making copies in any form (except where copies are required due to relevant Legislative Requirements), all Project Material, on whatever media and wherever located, and also any keys and other property of the Company which are in the possession of or under the control of the Subcontractor;

21.8.2 leave the Project and any Project offices as directed by the Company;

21.8.3 irretrievably delete any information relating to the business of the Company or the Client stored on any magnetic or optical disk or memory and all matter derived from those sources which is in the possession of or under the control of the Subcontractor;

21.8.4 supply all necessary information and explanation required by the Company in relation to the Services provided, its Personnel and any software used by the Subcontractor to enable the Company to use and complete the Services;

21.8.5 provide reasonable assistance to the Company in connection with the handing over of the Services to another Subcontractor;

21.8.6 provide a signed statement that it has complied fully with its obligations under this Clause 21.8; and

21.8.7 ensure that any Personnel of the Subcontractor comply with the terms of this Clause 21.8.

22 Force Majeure

Meaning of Force Majeure Event

22.1 Force Majeure Event in Clause 22.3 means any event or circumstance or combination of events and circumstances set out in Clause 22.2 which is beyond the control of the Party affected and which causes or results in default or delay in the performance by the affected Party of any of its obligations under this Agreement and, in the case of the Subcontractor, where none of the following apply:

22.1.1 An experienced Subcontractor could not foresee or reasonably make provision for the event, circumstance, default or delay;

22.1.2 The event, circumstance, default or delay was not caused or contributed to by any act or omission or breach of this Agreement by the Subcontractor;

22.1.3 The event could not reasonably be prevented, overcome or remedied by the exercise of Good Industry Practice including without limitation, the expenditure of all reasonable sums of money.

22.2 The events that may constitute a Force Majeure Event are any of the following:

22.2.1 Fire, explosion, mudslide, natural disaster, lightning, flood, earthquake, hurricane, cyclone, tsunami, or other act of God.

22.2.2 Riots, civil commotion, sabotage, terrorism, act of a public enemy, war (declared or undeclared), revolution, blockade or embargo.

22.2.3 Shipwreck, train or plane crashes.

22.2.4 Radioactive contamination or toxic or dangerous chemical contamination.

Force Majeure

22.3 Neither Party will be considered in breach of this Agreement to the extent that performance of their obligations is prevented by a Force Majeure Event.

22.4 Upon occurrence of an event considered by the Subcontractor to constitute a Force Majeure Event, it will immediately notify the Company in writing and recommend options to overcome the effects of the event. Upon receipt of the notice, the Company will make a determination, acting reasonably, as to whether the event or circumstance constitutes a

Force Majeure Event and will promptly notify the Subcontractor of its determination in writing. Despite any determination by the Company, the Subcontractor will endeavour to overcome the Force Majeure Event and continue to perform its obligations under this Agreement as far as reasonably practicable, subject to the other terms of this Clause 22.

22.5 If the Company determines that a Force Majeure Event has occurred the Company may suspend or terminate the whole or part of this Agreement by written notice to the Subcontractor. Where this Agreement is suspended in accordance with this Clause 22.5, the Parties will work together to agree any steps to be taken and an appropriate timetable to enable continued provision of the Services affected by the Force Majeure Event.

22.6 Nothing in this Clause 22 will oblige the Company to determine that a Force Majeure Event has occurred if the Client is not also willing to determine that a Force Majeure Event has occurred in accordance with the terms of the Head Contract, and the Company will be deemed to be 'acting reasonably' in accordance with Clause 22.4 should the Client make a determination accordingly.

22.7 The Company will be entitled to give notice to the Subcontractor that a Force Majeure Event has occurred without receiving notice from the Subcontractor and the terms of this Clause 22 will apply.

22.8 Where this Agreement is terminated or suspended in accordance with this Clause 22, the Subcontractor will be entitled to payment in accordance with Clause 20.

23 Assignment or Novation by the Company

23.1 The Company may, without any consent of the Subcontractor being required, assign, novate or otherwise transfer any of its rights and/or obligations under this Agreement to:

23.1.1 the Client,

23.1.2 a third party, or

23.1.3 any replacement supplier of the Project services to the Client.

23.2 Without limiting the Company's right to novate or assign its benefit and burden of this Agreement the Subcontractor will, if so requested by the Company, give prompt assistance to the Company by executing any documents requested by the Company to acknowledge or otherwise bring effect to the assignment or novation.

24 Conflict of Interest

24.1 Neither the Subcontractor nor any of the Subcontractor's Personnel will engage in any personal, business or professional activity which conflicts or could conflict with any of their obligations in relation to this Agreement.

24.2 The Subcontractor and the Subcontractor's Personnel will notify the Company immediately of any actual, perceived or potential conflict together with recommendations as to how the conflict can be avoided.

24.3 The Subcontractor will establish and maintain appropriate business standards, procedures and controls to ensure that no conflict of interest arises between Services undertaken for the Company and that undertaken for other clients. The Subcontractor will avoid knowingly committing any acts which are likely to result in any allegation of impropriety against the

Company or the Client, including conflicts of interest which are likely to prejudice their independence and objectivity in performing the Agreement, howsoever arising.

24.4 The Subcontractor will notify the Company immediately of any circumstances of which it becomes aware which give rise or potentially give rise to a conflict with the Services and will advise the Company of how they intend to avoid the conflict arising or remedy the situation. The Subcontractor will, subject to any obligations of confidentiality it may have to third parties, provide all information and assistance reasonably necessary (at the Subcontractor's cost) that the Company may request of the Subcontractor in order to avoid or resolve a conflict of interest and will ensure that at all times they work together with the Client with the aim of avoiding a conflict or to remedy a conflict.

24.5 The Subcontractor will, on written request from the Company (but not more than twice in any period of twelve (12) months), make a conflict of interest declaration in a form that will be reasonably specified by the Company.

24.6 The Company will have the right to require that the Subcontractor puts in place Ethical Walls and will ensure and satisfy the Company (and the Client, if applicable), that all information relating to this Agreement and to the Services (including all working papers, draft reports in both tangible and intangible form) are not shared or made available to person(s) other than Subcontractor Personnel providing the Services and that the matters are not discussed by any person(s) other than Subcontractor Personnel providing the Services.

24.7 In the event of a failure to maintain the Ethical Walls as set out in Clause 24.6, the Company reserves the right to immediately terminate the Agreement by giving written notice to the Subcontractor and, where the notice of termination for breach is given, the terms of Clause 20 will apply.

25 Prevention of Prohibited Acts

25.1 The Subcontractor represents and warrants that neither it, nor to the best of its knowledge any Subcontractor Personnel, any person acting on their behalf, have at any time prior to the Effective Date:

25.1.1 committed a Prohibited Act or been formally notified that it is subject to an investigation or prosecution which relates to an alleged Prohibited Act; and/or

25.1.2 been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act.

25.2 Neither the Subcontractor nor the Subcontractor Personnel nor any person acting on their behalf will accept for their own benefit or pass on for the benefit of partner government, recipient or end user, any trade commission, discount, voucher scheme, re-sale or similar payment or benefit in connection with this Agreement.

25.3 The Subcontractor, Subcontractor Personnel, or any person acting on their behalf will not during the Term:

25.3.1 commit a Prohibited Act; and/or

25.3.2 do or suffer anything to be done which would cause the Company, the Client or any of their employees, consultants, suppliers, Subcontractors or agents to

contravene any of the Relevant Requirements or otherwise incur any liability in relation to the Relevant Requirements.

25.4 The Subcontractor is responsible for preventing and detecting Prohibited Acts including Prohibited Acts within functions it performed by a Subcontractor or under any other arrangement established by the Subcontractor relating to the performance of this Agreement.

25.5 The Subcontractor will during the Term:

25.5.1 establish, maintain and enforce policies and procedures which are adequate to prevent the occurrence of a Prohibited Act; and

25.5.2 keep appropriate records of its compliance with its obligations under this Clause 25 and make the records available to the Company on request.

25.6 If the Subcontractor becomes aware of any Prohibited Acts, it must report the matter to the Company in writing within 5 Working Days. The written report the Company must be signed by the Subcontractor Representative and must include the following (where known):

25.6.1 the name of the Project;

25.6.2 the name of any Personnel (including any Subcontractors) involved;

25.6.3 the allegations(s), including a chronological account of the facts giving rise to the allegation(s);

25.6.4 the names of the suspected offender(s) (where known);

25.6.5 details of witnesses;

25.6.6 copies of relevant documents;

25.6.7 references to any relevant legislation;

25.6.8 a nominated contact officer;

25.6.9 the current status of any inquiries commenced by the Subcontractor; and

25.6.10 any other relevant information.

25.7 If the Subcontractor becomes aware of a Prohibited Act, the Subcontractor must, in consultation with the Company, develop and implement a strategy to investigate the Prohibited Act.

25.8 The Subcontractor must investigate any Prohibited Act at its own cost and in accordance with any directions from the Company or the Client.

25.9 The Company reserves the right to appoint its own investigator, conduct its own investigation or report the Prohibited Act to the appropriate law enforcement agencies or any other person or entity the Company considers appropriate for investigation. If the Company exercises this right the Subcontractor must provide all reasonable assistance that may be required at its sole expense.

25.10 After the investigation is finished, if a suspected offered has been identified or at the direction of the Company, the Subcontractor must promptly report the Prohibited Act to local policy and any other appropriate law enforcement agency in the country where the incident occurred, unless the Company agrees otherwise in writing.

25.11 If the investigation finds that a person other than the Subcontractor or its Personnel has engaged in a Prohibited Act, the Subcontractor must, at its own cost, take all reasonable

action to recover any Company or Client funds or property, including taking recover action in accordance with recovery procedures available in the relevant country.

25.12 Where the Subcontractor or Subcontractor Personnel, or any person acting on their behalf, does any of the acts mentioned in this Clause 25 with or without the knowledge of the Subcontractor, or if the Company discovers that a Prohibited Act has not been reported to the Company, in relation to this Agreement or any other contract with the Company or the Client, the Company will be entitled:

25.12.1 to terminate this Agreement with immediate effect by written notice to the Subcontractor and recover from the Subcontractor the amount of any Losses resulting from the termination;

25.12.2 to recover from the Subcontractor the amount or value of any gift, consideration or commission;

25.12.3 to recover from the Subcontractor any other Losses sustained as a result of any breach of this Clause 25, whether or not the Agreement is terminated.

26 Anticorruption

26.1 The Subcontractor warrants and represents to the Company that neither the Subcontractor, Subcontractor Personnel, servants, agents or sub-sub-Subcontractors, or any person acting on their behalf, have made, will make or cause to be made, receive or seek to receive any offer, gift or payment, commission, or benefit of any kind which could be construed as an illegal or corrupt act, either directly or indirectly to any Party or third party in relation to any contract.

26.2 Any breach of Clause 26.1 will entitle the Company to terminate this Agreement immediately for breach in accordance with Clause 20.

27 Counter-terrorism

27.1 The Subcontractor must ensure that funds provided under this Agreement do not provide direct or indirect support or resources to:

27.1.1 organisations and/or individuals associated with terrorism or drug trafficking; and

27.1.2 organisations and individuals for whom Australia has imposed sanctions under:

a) the *Charter of the United Nations Act 1945* (Cth) and regulations made under that Act;

b) the *Autonomous Sanctions Act 2011* (Cth) and regulations made under that Act;

c) the World Bank List or a Relevant List.

27.2 Any breach of Clause 27.1 will entitle the Company to terminate this Agreement immediately for breach in accordance with Clause 20.

28 Discrimination, Environment, Gender and Other

28.1 The Subcontractor will engage in environmentally sustainable development, promoting conservation and sustainable use of natural resources, conservation of biodiversity and heritage sites, and disaster risk reduction planning, ensuring it is compliant with environmental protection legislation.

28.2 The Subcontractor and its Personnel will adhere to workplace health and safety legislative requirements and in doing so, will focus on actions to prevent harm or ensure reasonable care of Subcontractor and Company Personnel.

28.3 The Subcontractor will promote gender equity and inclusive development ensuring that persons with disabilities, and other disadvantaged or vulnerable groups, are considered in the workplace and in delivering the Services.

28.4 The Subcontractor and its Personnel will not engage in, and the Subcontractor represents and warrants that it has not been engaged with:

28.4.1 unlawful discrimination either directly or indirectly against protected characteristics such as race, colour, ethnic or national origin, disability, sex or sexual orientation, religion or belief, or age.

28.4.2 support of trafficking activities, procuring of commercial sex acts or using forced labour; is aware of regulatory prohibitions in the jurisdictions they are engaged; and agrees to develop project specific Trafficking in Persons (TIP) Compliance Plans where government regulations mandate.

28.4.3 any practice inconsistent with the rights set forth in the Convention of the Rights of the Child which requires that a child will be protected from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

28.4.4 any practice involving child exploitation and abuse, harm or mistreatment of children, child grooming, emotional abuse, neglect or pornography.

28.4.5 the sale or manufacture of antipersonnel mines or of components used in the manufacture of mines.

28.4.6 the manufacture, sale, transportation, or distribution of any drug or narcotic substance deemed to be illegal in either the country of manufacture or delivery of the Goods and/or Services being provided to the Company under this Agreement.

28.4.7 the transportation or provision of services of human beings for purposes deemed illegal in either the country of origin, sale or delivery of the Goods and/or Services being provided under this Agreement.

28.5 Any breach of this Clause 28 will entitle the Company to terminate this Agreement immediately for breach in accordance with Clause 20.

29 Non-Solicitation and Non-Competition

29.1 During the Term of this Agreement and for 12 months following expiration or termination, neither Party will (Party A), without the consent of the other Party (Party B), induce or attempt to induce a person who is an employee of Party B to terminate their employment with Party B and commence with Party A in any capacity.

29.2 During the Term of this Agreement the Subcontractor and its Personnel will not compete with the Company, or assist or be contracted by the competitors of the Company, in relation to any Australian Government project or request for tender without the consent of the Company in writing, which will not be unreasonably withheld.

30 Relationship of the Parties

30.1 Nothing contained in this Agreement will be construed or have effect as constituting any relationship of employer and employee between the Company and the Subcontractor, nor that of agent and principal. The Subcontractor will not have any right or power whatsoever to contract on behalf of the Company or bind the Company in any way in relation to third parties and the Subcontractor will not hold itself out as having any such authority. Nothing contained in this Agreement will constitute a partnership or joint venture between the Company and Subcontractor.

31 Notices and Dispute Resolution

31.1 Notices will be in writing and addressed to the other Party's Representative at the address set out in Item 1 of Schedule 1 the Subcontract Particulars or another address as is subsequently notified in writing by the Party.

31.2 Notices will be deemed to have been received:

31.2.1 if sent by courier or a form of post requiring confirmation of delivery, the date of the delivery;

31.2.2 if sent by regular mail, on the third Working Day from the dale mailed;

31.2.3 if hand delivered by 5.00pm on a Working Day in the place of receipt, that Working Day, and otherwise the following Working Day I the place of receipt; or

31.2.4 if sent by email, when it reaches the addressee's electronic address and becomes capable of being retrieved by the addressee.

31.3 In the event of a dispute, prior to commencing any arbitration or court proceedings, other than for interlocutory relief, the Parties agree to enter into negotiations to resolve, in an amicable manner, any dispute that they have concerning this Agreement.

31.4 Where a dispute has not been resolved within 30 Working Days of first occurrence the dispute will be submitted to mediation in accordance with, and subject to, The Institute of Arbitrators & Mediators Australia Mediation and Conciliation Rules.

31.5 If there is no resolution to the dispute within 30 Working Days of mediation commencing in accordance with Clause 31.4, unless that period is extended by agreement of the Parties, then either Party may commence legal proceedings.

31.6 Clauses 31.3 to 31.5 will not apply to fraud, the recovery of funding, or the investigation into an alleged breach by the Subcontractor.

32 Miscellaneous

Assignment and subcontracting

32.1 The Subcontractor must not assign, transfer or subcontract any of its rights or obligations under this Agreement without the prior written consent of the Company. To the extent that the Company consents to the subcontracting of any of the Subcontractor's responsibilities (to a 'Subcontractor') set out in this Agreement:

32.1.1 the subcontracting will not relieve the Subcontractor of its obligations under this Agreement;

32.1.2 the Subcontractor will exercise due skill and care in the selection of any Subcontractors to ensure that the Subcontractor is able to:

a) manage any subcontracts in accordance with Good Industry Practice; and

b) comply with its obligations under this Agreement in the provision of the Services.

32.2 The terms of any subcontract entered into by the Subcontractor will contain provisions:

32.2.1 requiring the Subcontractor to comply with the requirements of Schedule 4 at all times;

32.2.2 requiring the Subcontractor to pay any undisputed sums which are due from it to the Subcontractor within a specified period not exceeding thirty (30) days from the receipt of a valid invoice;

32.2.3 requiring that any invoices submitted by a Subcontractor will be considered and verified by the Subcontractor in a timely fashion and that undue delay in doing so will not be sufficient justification for failing to regard an invoice as valid and undisputed;

32.2.4 giving the Subcontractor a right to terminate the subcontract if the Subcontractor fails to comply in the performance of the subcontract with legal obligations in the fields of environmental, social or labour law; and

32.2.5 requiring the Subcontractor to include in any further subcontract which it in turn awards suitable provisions to impose, as between the parties to that subcontract, requirements to the same effect as those required by this clause.

Entire agreement

32.3 This Agreement contains everything the parties have agreed in relation to the matters it deals with. No party can rely on an earlier document, or anything said or done by another party, or by a director, officer, agent or employee of that party, before this Agreement was executed, except as permitted by law or as set out in this Agreement.

Waiver

32.4 The fact that the Company fails to do, or delays in doing, something that the Company is entitled to do under this Agreement, does not amount to a waiver of any obligation or breach of obligation by the Company. A waiver by the Company is only effective if it is in writing.

32.5 A written waiver by the Company is only effective in relation to the particular obligation or breach in respect of which it is given. It is not to be taken as an implied waiver of any

obligation or breach, or as an implied waiver of that obligation or breach in relation to any other occasion.

Execution of separate documents

32.6 This Agreement is properly executed if each party executes either this Agreement or an identical document. In the latter case, this Agreement takes effect when the separately executed documents are exchanged between the parties.

Governing law and jurisdiction

32.7 This document is governed by the law of Queensland, Australia. The parties submit to the non-exclusive jurisdiction of its courts and courts of appeal from them. The parties will not object to the exercise of jurisdiction by those courts on any basis.

Severability

32.8 If a clause or part of a clause of this Agreement can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way. If any clause or part of a clause is illegal, unenforceable or invalid, that clause or part is to be treated as removed from this document, but the rest of this document is not affected.

Amendment

32.9 No amendment of this Agreement will be of any force or effect unless it is in writing and signed by the parties to this Agreement.

Survival

32.10 The following terms and conditions will survive the expiration or termination of this Agreement:

32.10.1 Clause 5 (Access and Audit)

32.10.2 Clause 9 (Intellectual Property)

32.10.3 Clause 12 (Confidentiality)

32.10.4 Clause 13 (Privacy and Data Protection)

32.10.5 Clause 14 (Indemnity and Liability)

32.10.6 Clause 15 (Duty of Care and Insurance)

32.10.7 Clause 20 (Non-Solicitation and Non-Competition)

33 Definitions and interpretation

Interpretation

33.1 The words used in this Agreement will be defined as set out in the Definitions set out in Clause 33.5. If any word in Clause 33.5 is defined specifically within the Agreement, the definition within the Agreement will prevail to the extent of any inconsistency.

33.2 Within this Agreement, a reference to this Agreement or another instrument will include any variation, amendment, novation, or replacement of this Agreement or the instrument to which there is a reference.

33.3 If there is any inconsistency between the Client Terms and Conditions set out in Schedule 4, the Terms and Conditions of this Agreement, and the other Schedules of this Agreement, then the order of these documents as listed in this clause will apply to resolve the inconsistency subject to any explicit changes to this priority set out in this Agreement.

33.4 In case of any ambiguities or inconsistencies in this Agreement not covered by this clause, the Client Terms and Conditions set out in Schedule 4, when applicable, followed by the requirement with the higher standard or which requires the higher performance or additional work or obligations will prevail.

Definitions

33.5 In this Agreement the following definitions apply:

Agreement means this document (including the Cover Sheet, Terms and Conditions, all Schedules and all attachments to this document) as may be amended or supplemented by the Parties from time to time in writing.

Agreement Currency means the currency set out in Item 5.6 of Schedule 1 the Subcontract Particulars.

Business Partner Code of Conduct means the Palladium Business Partner Code of Conduct as listed in Clause 9.1.

Claim means any claim, action, proceeding, demand, prosecution, judgement, damage, loss, cost, expense, fine, penalty or liability whatever incurred or suffered by or brought or made or recovered against a person or any company or other form of entity and however arising (whether presently ascertained, future or contingent).

Client Pre-existing IPR means:

a) IPR owned by the Client before the Effective Date, including IPR contained in any of the Client's know-how, documentation, software, processes and procedures; and/or
b) IPR created by the Client independently of this Agreement.

Client Data means:

a) the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, and which are:
    i. supplied to the Subcontractor by or on behalf of the Client; or
    ii. Client Data which the Subcontractor is required to generate, process, store or transmit in accordance with this Agreement; or
b) any Personal Data for which the Client is the Data Controller.

Company Pre-existing IPR means:

a) IPR owned by the Company before the Effective Date, including IPR contained in any of the Company's know-how, documentation, software, processes and procedures; and/or
b) IPR created by the Company independently of this Agreement.

Company Data means:

a) the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, and which are:
   i. supplied to the Subcontractor by or on behalf of the Company; or
   ii. which the Subcontractor is required to generate, process, store or transmit in accordance with this Agreement; or

b) any Personal Data for which the Company is the Data Controller.

Confidential Information means company proprietary information, technical data, trade secrets, or know-how, including, but not limited to, business information, research, marketing, technical, financial information, product plans, products, services, customer lists, markets, software, developments, inventions, processes, formulas, technology, designs, drawings, engineering, and any other information relating to its personnel, clients, customers, affiliates, or agents disclosed to one Party or its personnel by the other Party either directly or indirectly.

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

Data Protection Legislation means all applicable laws relating to the processing of Personal Data and privacy, including but not limited to the Australian *Privacy Act 1988* (Cth) and the *Australian Government Agencies Privacy Code*.

Day means calendar day of 24-hours without regard for non-work days, holidays, or other exceptions.

Deliverable means any deliverable set out in Schedule 2 for which the Subcontractor is required to provide to receive a payment in accordance with this Agreement.

DFAT Deed of Confidentiality means the deed of confidentiality substantially in accordance with the DFAT Deed of Confidentiality available at http://www.thepalladiumgroup.com/policies made in favour of the Commonwealth of Australia.

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

Ethical Walls means a process for avoiding conflicts of interest by limiting disclosure of information to certain individuals within an organisation, thereby building a metaphorical wall between the holders of information and colleagues who represent interests or hold opinions which conflict.

Good Industry Practice means the exercise of that degree of care, skill, diligence, prudence, efficiency, foresight and timeliness which would be reasonably expected from an expert supplier of services similar to the Services, with the supplier seeking to comply with its contractual obligations in full and complying with all applicable Legislative Requirements.

Head Contract means the contract entered into for the Project between the parties set out in Item 4.4 of Schedule 1 the Subcontract Particulars on the date set out in Item 4.3 of Schedule 1 the Subcontract Particulars.

Insolvency Event means the Subcontractor:

a) goes into liquidation;
b) has a liquidator, receiver or official manager appointed to it;
c) becomes bankrupt;
d) enters into a scheme of arrangement with creditors;
e) becomes unable to pay the Subcontractor's debts as they become due; or
f) is insolvent or enters into or is subject to anything which has a similar purpose or effect to any of the above.

Intellectual Property Rights or **IPR** means:

a) copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semiconductor topography rights, trade marks, rights in Internet domain names and website addresses and other rights in trade names, designs, Know-How, trade secrets and other rights in Confidential Information;
b) applications for registration, and the right to apply for registration, for any of the rights listed in (a) that are capable of being registered in any country or jurisdiction; and
c) all other rights having equivalent or similar effect in any country or jurisdiction.

Invoice means an invoice that complies with all relevant laws in the country in which the Services are delivered.

IPR Claim means any claim of infringement or alleged infringement (including the defence of any infringement or alleged infringement) of any IPR, used to provide the Services or as otherwise provided and/or licensed by the Subcontractor (or to which the Subcontractor has provided access) to the Company or the Client (including any claims arising from the publication of the Project Specific IPR as open source) in the fulfilment of its obligations under this Agreement.

Legislative Requirements means any applicable law, statute, bye-law, regulation, order, consent, permit, approval, regulatory policy, guidance or industry code, rule of court or directives or requirements of any Regulatory Body, delegated or subordinate legislation or notice of any Regulatory Body.

Licensed Software means all and any Software licensed by or through the Subcontractor, its Subcontractors or any third party to the Company for the purposes of or in accordance with this Agreement, including any Supplier Software, Third Party Software and/or any Specially Written Software.

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

Material includes property, equipment, information, data, photographs, documentation or other material in any form, including 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 means any milestone set out in Schedule 2 for which the Subcontractor must achieve to receive a payment in accordance with this Agreement.

Partner Country means the country or countries set out in Item 4.5 of Schedule 1 the Subcontract Particulars.

Party and/or **Parties** means either the Company or the Subcontractor or both collectively as set out in Item 1 of Schedule 1 the Subcontract Particulars.

Personal Data means personal information as defined by the Legislative Requirements governing this Agreement including all Data Protection Legislation.

Personnel means the officers, employees, agents, advisers, Subcontractors and Subcontractors (including their respective personnel) of either party or the Client.

Prohibited Act means:

a) dishonestly obtaining a benefit or causing a loss by dishonest or other improper means (Fraud) and includes alleged, attempted, suspected or detected Fraud.
b) to directly or indirectly offer, promise or give any person working for or engaged by the Company or the Client a financial or other advantage to:
   i. induce that person to perform improperly a relevant function or activity; or
   ii. reward that person for improper performance of a relevant function or activity;
c) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this agreement or the Project;
d) an offence:
   i. under legislation or common law concerning fraudulent acts; or
   ii. defrauding, attempting to defraud or conspiring to defraud the Company or the Client; or
e) any activity, practice or conduct which would constitute one of the offences listed under (c) above if the activity, practice or conduct had been carried out in Australia.

Project means the Project set out in Item 4.1 of Schedule 1 the Subcontract Particulars.

Project Material means all Material including data, results, discoveries, inventions, improvements, reports, and other works of authorship, trade secrets, and any other work product or deliverables:

a) brought into existence or supplied as part of or for the purpose of performing the Services; or
b) copied or derived from the above Material.

Promotional Material means any public statement or advertisement whether in written, verbal or visual format (whether or not digital and/or web-based) relating to the Services and/or the Project.

Record means a document or anything constituting a piece of evidence about the past, or an account kept in writing or in some other permanent form (electronic or otherwise) that records information relevant to the Project, the Subcontractor's operations or the Company's operations.

Regulatory Bodies means those government departments, regulatory, statutory and other entities, committees and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in this Agreement or any other affairs of the Subcontractor, the Company or the Client and **Regulatory Body** will be construed accordingly.

Related Bodies Corporate and **Related Body Corporate** means a body corporate which is related to another body corporate within the meaning of section 50 of the Australian *Corporations Act 2001* (Cth).

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

Relevant Requirements means all applicable laws relating to bribery, corruption and fraud, including the Criminal Code Act 1995 and relevant legislation in Australian States and Partner Countries.

Services means any service provided, or to be provided, to the Company by the Subcontractor (or any of the Subcontractor's Subcontractors) set out in or in connection with this Agreement including, but not limited to, the Services set out in Schedule 2 together with the supply of any tangible and intangible items (including, without limitation, goods, materials, equipment, software) associated with the Services and also any services that are necessary to perform those Services.

Software means Specially Written Software, Subcontractor Software and Third Party Software.

Specially Written Software means any software (including database software, linking instructions, test scripts, compilation instructions and test instructions) created by the Subcontractor (or by a sub-Subcontractor or other third party on behalf of the Subcontractor) specifically for the purposes of this Agreement, including any modifications, configuration, customisation, or enhancements to Subcontractor Software or Third Party Software created specifically for the purposes of this Agreement;

Subcontractor Pre-existing IPR means:

a) Intellectual Property Rights owned by the Subcontractor before the Term Start Date, for example those subsisting in the Subcontractor's standard development tools, program components or standard code used in computer programming or in physical or electronic media containing the Subcontractor's Know-How or generic business methodologies; and/or
b) Intellectual Property Rights created by the Subcontractor independently of this Agreement, which in each case is or will be used before or during the Term for designing, testing implementing or providing the Services but excluding Intellectual Property Rights owned by the Subcontractor subsisting in the Subcontractor Software.

Subcontractor Software means any software which is proprietary to the Subcontractor (or a Related Body Corporate of the Subcontractor) which is or will be used by the Subcontractor or any sub-Subcontractor for the purposes of providing the Services or is embedded in and in respect of other software as required to be licensed in order for the Company or the Client to receive the benefit of and/or make use of the Services.

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

Term means the term of this Agreement which will commence on the Term Start Date and end on the Term End Date as set out in Items 5.2 and 5.3 of Schedule 1 the Subcontract Particulars.

Third Party IPR means Intellectual Property Rights owned by a third party but excluding Intellectual Property Rights owned by the third party subsisting in any Third Party Software.

Third Party Software means any software which is proprietary to any third party (other than a Related Body Corporate of the Subcontractor) or any open source software which is or will be used by the Subcontractor for the purposes of providing the Services.

Total Agreement Sum means the sum set out in Item 5.4 of Schedule 1 the Subcontract Particulars.

Working Day means any day other than a Saturday, Sunday or public holiday in Queensland, Australia.

World Bank List means a list of organisations maintained by the World Bank in its "Listing of Ineligible Firm" or "Listings of Firms, Letters of Reprimand" posted at: http://web.worldbank.org