



RFT AM 2922

Part C

DRAFT Standard contract terms and conditions:

Service Agreement



COFFEY INTERNATIONAL DEVELOPMENT PTY LTD
(“COFFEY INTERNATIONAL DEVELOPMENT”)

- and -

< SERVICE PROVIDER >
(SERVICE PROVIDER)

GS – XXXX GOODS AND SERVICES AGREEMENT

for

<GOODS AND SERVICES REQUIRED>

for

< NAME OF PROGRAM >

GOODS AND SERVICES AGREEMENT

THIS AGREEMENT is made < COFFEY WILL INSERT DATE >

BETWEEN: **COFFEY INTERNATIONAL DEVELOPMENT PTY LTD**
ABN 63 007 889 081 of Level 1,33 Richmond Road Keswick SA 5035,
("COFFEY INTERNATIONAL DEVELOPMENT")

AND **< SERVICE PROVIDER >**
ABN of < address >

RECITALS

Coffey International Development carries on the business of a management consultant and international project manager. < PROGRAM > is managed by Coffey International Development on behalf of the Australian Government.

Coffey International Development engages the Service Provider to provide the Service/ and /or Goods and the Service Provider agrees to provide the Services and / or Goods on the terms of this Agreement.

THE PARTIES AGREE as follows:

RECITALS

The recitals are true and form an operative part of this Agreement

This Agreement is written in plain English as far as possible. Its terms are to be interpreted so as to give efficacy to the parties' agreement. No rule resolving a doubt as to interpretation against the party preparing this Agreement will apply. The specific provisions will not limit the interpretation of general provisions.

1. DEFINITIONS

- 1.1 "Acceptance Date" means the date the Goods are accepted by Coffey;
- 1.2 "Agreement" means this Agreement between the parties;
- 1.3 "Business Day" means any day that is not a Saturday or Sunday or a public holiday in South Australia;
- 1.4 "Commencement Date" means the date specified in Schedule 2, when the supply of Services begins;
- 1.5 "Completion Date" means the date specified in Schedule 2;
- 1.6 "Compliance Tests" means tests performed on the Goods to ensure they comply with the Service Providers warranties in clause 10;
- 1.7 "Compliance Test Period" means the period specified in the Purchase Order beginning from the Delivery Date (or if no period is specified, 14 calendar days from the Delivery Date).
- 1.8 "Complying Goods" are Goods that comply with the Service Provider's warranties in clause 10;
- 1.9 "Contractor" means the Contractor, contracted to perform the Services or Supply the Goods under this Agreement;
- 1.10 "DFAT" means the Australian Government's Department of Foreign Affairs and Trade;

- 1.11 "Defective Goods" means Goods that do not comply with the Service Provider's warranties in clause 10;
- 1.12 "Deliverables" means the reports and any data or other material specified in Schedule 1 required to be delivered throughout the supply of the Goods;
- 1.13 "Delivery" means the delivery of the Goods to the Delivery Point;
- 1.14 "Delivery Date" means the date specified in the relevant Purchase Order for delivery of the Goods;
- 1.15 "Delivery Point" means the location(s) described in Schedule 2, where the Goods will be delivered;
- 1.16 "Goods" means the goods specified in Schedule 1 and includes the Services (if any) and the Deliverables;
- 1.17 "GST" means the tax imposed by the GST Law;
- 1.18 "GST Law" has the meaning attributed in the A New Tax System (Goods and Services Tax) Act 1999 (Cth);
- 1.19 "GST Rate" has the meaning attributed in the GST Law;
- 1.20 "Installation Date" means the date specified in the Schedule for the installation of the Goods;
- 1.21 "Intellectual Property Rights" means all intellectual property rights, including:
 - 1.21.1 patents, plant breeders' rights, copyright, rights in circuit layouts, registered designs, trademarks, know-how and any right to have Confidential Information kept confidential; and
 - 1.21.2 any application or right to apply for registration of any of the rights referred to in clause 19, but for the avoidance of doubt excludes moral rights and performers' rights;
- 1.22 "Laws" means all Acts of Parliament of the Commonwealth of Australia and of the State of South Australia, and the requirements of all ordinances, regulations, by-laws, orders, and proclamations;
- 1.23 "Non- Compliance Notice" means the notice described in clause 5.5;
- 1.24 "Performance Criteria" means the performance criteria for the Goods as specified in Schedule 2;
- 1.25 "Personnel" means any subcontractor Service Providers, employees, agents and any other person employed or engaged by the Service Provider to perform this Agreement, and includes the Service Provider's Representative;
- 1.26 "Prices" means the prices set out in or determined in accordance with Schedule 2;
- 1.27 "Principal's Representative" means the person identified in Schedule 2;
- 1.28 "Purchase Order" means a Document incorporating all the information of Schedule 1 for the supply of the Goods;
- 1.29 "Representative" means either of the persons nominated as the Service Provider's Representative and Coffey's Representative;
- 1.30 "Services" means the services specified in Schedule 1 that are incidental to the supply of the Goods;
- 1.31 "Service Provider" means the Service Provider, contracted to perform the Services or Supply the Goods under this Agreement;
- 1.32 "Service Provider's Representative" means the person identified in Schedule 2;
- 1.33 "Specification" means the specifications for the Goods or Services in Schedule 1;
- 1.34 "Warranty Period" means the period set out in Schedule 2

2. INTERPRETATION

- 2.1 In this Agreement (unless the context requires otherwise),
 - 2.1.1 the singular includes the plural;
 - 2.1.2 the plural includes the singular; and
 - 2.1.3 a gender includes every other gender.
 - 2.1.4 words referring to individuals include corporations, unincorporated associations, partnerships, trusts and joint ventures;
 - 2.1.5 a reference to a party includes that party's administrators, successors and permitted assigns;
 - 2.1.6 where the day on or by which something is to be done is not a Business Day, that thing may be done on or by the next Business Day;
 - 2.1.7 a reference to a clause, subclause, schedule or attachment is a reference to a clause, subclause, schedule or attachment of this Agreement;
 - 2.1.8 the words "clause" or "schedule" refer to a clause or schedule to this Agreement;
 - 2.1.9 a reference to a clause number includes its sub-clauses;
 - 2.1.10 the word "or" is not exclusive;
- 2.2 This Agreement between the parties comprises these standard terms and conditions and all the documents comprised in, and incorporated by reference to, the Schedules. If any of the documents comprising this Agreement are inconsistent, they shall take priority in the following order:
 - 2.2.1 the special conditions (if any) in Schedule 1;
 - 2.2.2 these standard terms and conditions (excluding Schedule 2); and
 - 2.2.3 Schedule 2.

3. TERM

- 3.1 This Agreement starts on the Commencement Date and ends on the Completion Date unless terminated earlier ("Term").
- 3.2 Coffey may extend the Term for the period specified in Schedule 2 by giving written notice to the Service Provider within the period specified in Schedule 2.
- 3.3 The Term of this Agreement may be extended as agreed between the Parties and subject to Agreement performance, availability of funding and DFAT approval.

4. SUPPLY OF GOODS

- 4.1 The Service Provider must:
 - 4.1.1 supply the Goods described in Schedule 1 in accordance with this Agreement;
 - 4.1.2 sell the Goods without encumbrance;
 - 4.1.3 deliver the Goods to the Delivery Point on or before the Delivery Date;
 - 4.1.4 comply with Coffey's reasonable directions and delivery instructions;
 - 4.1.5 if requested by Coffey, provide Coffey with material safety data sheets with respect to the Goods delivered;
 - 4.1.6 provide test evidence for the Goods if required; and

- 4.1.7 if indicated in the Schedule, install the Goods on or before the Installation Date specified in the Schedule.
- 4.2 If the Service Provider cannot comply with any of its obligations under clause 4.1, the Service Provider must notify Coffey in writing immediately.
- 4.3 The Service Provider's cart notes must clearly show Coffey's Purchase Order number, (if the Purchaser provided a Purchase Order number to the Service Provider), and the cart notes must be provided with the Goods.
- 4.4 Coffey may accept the Goods by written notice to the Service Provider. If two (2) weeks have expired from the date of delivery of the Goods, and Coffey has not rejected the Goods, Coffey will be taken to have accepted the Goods. Any acceptance of the Goods under this clause does not prevent Coffey making a claim in respect of Defective Goods.
- 4.5 The Service Provider bears the risk in the Goods until Coffey has inspected and accepted the Goods pursuant to clause 4.4. Title and risk in the Goods will pass to Coffey upon Coffey's acceptance of the Goods.

5. SERVICES

- 5.1 The Service Provider must provide the Services described in the Schedule 1 in accordance with the terms and conditions of this Agreement.
- 5.2 The Service Provider must either complete the Services by the Completion Date or provide the services at all agreed times during the Term, as specified in the Services Agreement.
- 5.3 The Services must:
 - 5.4.1 be free from defects in performance;
 - 5.4.2 meet their purpose; and
 - 5.4.3 be complete and in accordance with the description in the Services Agreement.
- 5.4 Coffey may inspect the performance and outcome of the Services at any time.
- 5.5 If there is a defect in performance of the Services Coffey may by notice require the Service Provider to remedy the defect at no additional cost to Coffey.
- 5.6 Coffey may at any time give written notice to the Service Provider proposing a Variation ("Variation Proposal") to the scope of the Services ("Varied Services").
- 5.7 Coffey and the Service Provider must agree in writing to the price for the Varied Services as contained in Coffey's Variation Proposal.
- 5.8 The Variation Proposal does not take effect unless and until the parties reach a written agreement contemplated in clause 5.7, and the Service Provider must still perform the Services as required under this Agreement.
- 5.9 Unless the Services Agreement states otherwise, the Services may be provided by the Service Provider either personally or through the employment/subcontracting of other persons.
- 5.10 The Service Provider warrants that it will exercise skill, care and diligence to a high standard in providing the Services.
- 5.11 In providing the Services the Service Provider must:
 - 5.11.1 comply with any reasonable directions given by or on behalf of Coffey from time to time;
 - 5.11.2 comply with all policies procedures and directives of Coffey so far as they are made known to the Service Provider;
 - 5.11.3 comply with all applicable standards, laws and regulations;
 - 5.11.4 take all reasonable practical measures to ensure the Service Provider's own safety and the safety of the Service Provider's employees;

- 5.11.5 provide and use appropriate safety equipment and clothing and require employees of the Service Provider to use that equipment;
 - 5.11.6 provide all labour, materials, plant and equipment necessary to perform the Service Provider's obligations under the Agreement;
 - 5.11.7 provide Coffey on request with written evidence of Work Cover and prescribed payments taxation registration (if applicable).
- 5.12 If the Services do not meet their purpose or are not in accordance with the Services Agreement, Coffey may by notice require the Service Provider to redo the Services at no additional cost to Coffey.
- 5.13 Where the Service Provider fails to:
- 5.13.1 remedy a defect in performance of the Services; or
 - 5.13.2 redo the Services; within the time specified in a notice given by Coffey under clause 5.5, Coffey may arrange for the performance of the necessary work and recover the cost from the Service Provider.

6. DELIVERABLES

- 6.1 If the Service Provider is to provide Deliverables then the details of the Deliverables (if any) set out in Schedule 1, including the delivery dates and the form and content requirements, must be complied with by the Service Provider.
- 6.2 Title in the Deliverables will vest in Coffey on their delivery to Coffey.

7. OWNERSHIP AND RISK IN THE GOODS

- 7.1 Title and ownership in Goods passes to Coffey upon acceptance, in accordance with clause 4.5.
- 7.2 The Service Provider bears the risk in the Goods until Coffey has inspected and accepted the Goods pursuant to clause 4.5.
- 7.3 Risk in the Goods passes to Coffey when the Goods are delivered to the Delivery point.

8. ACCEPTANCE OF THE GOODS

- 8.1 During the compliance Test Period Coffey may perform Compliance Tests.
- 8.2 If the Goods fail a Compliance Test:
 - 8.2.1 Coffey must provide written notice of the non-compliance ("Non Compliance Notice"); and
 - 8.2.2 The Service Provider must provide (and install if applicable) replacement Complying Goods within the Replacement Period.
- 8.3 If the Service Provider provides replacement Goods, Coffey may perform Compliance Tests on the replacement Goods in accordance with clause 8.
- 8.4 Coffey must accept the Goods when satisfied that the Goods are Complying Goods.
- 8.5 On acceptance, Coffey must provide the Service Provider with a written acceptance notice that includes the Acceptance Date.
- 8.6 Coffey will be taken to have accepted the Goods supplied if Coffey does not issue a Non-Compliance Notice within 14 calendar days of the expiry of the Compliance Test Period.
- 8.7 If the Goods fail the Compliance Test and the Service Provider does not provide replacement Complying Goods pursuant to clause 8, Coffey may terminate this Agreement, and the Service Provider must remove the Goods from the Delivery point. If the Service Provider does not remove the Goods, Coffey may (but is not obliged to):

- 8.7.1 fix the Goods itself or contract with any other person to fix the Non- Complying Goods so that they become Complying Goods and the Service Provider must reimburse Coffey for all costs incurred in fixing the Goods;
- 8.7.2 return the Goods to the Service Provider (at the Service Provider's cost);
- 8.7.3 move the Non- Complying Goods to a storage place (at the Service Providers' cost); or dispose of the Goods at Coffey's discretion.

9. WARRANTY PERIOD

- 9.1 The Warranty Period is as stated in Schedule 2 and starts on the Acceptance Date.
- 9.2 If, in Coffey's reasonable opinion, the Goods fail to comply with any of the Service Providers Warranties in clause 10 during the Warranty Period, Coffey may perform a Compliance Test at the Service Provider's cost.
- 9.3 If the Goods fail any such Compliance Test:
 - 9.3.1 Coffey must issue a Non- Compliance Notice; and
 - 9.3.2 at Coffey's election, the Service Provider must provide (and install if applicable) replacement complying Goods within the Replacement Period or refund the Price.
- 9.4 If the Service Provider provides replacement Goods, Coffey may perform Compliance Test on the replacement Goods in accordance with clause 8.

10. SERVICE PROVIDER'S WARRANTIES

- 10.1 The Service Provider warrants that the Goods:
 - 10.1.1 are new (unless otherwise specified);
 - 10.1.2 conform with any description applied and any sample provided by the Service Provider;
 - 10.1.3 conform with the Specifications;
 - 10.1.4 conform to the Service Provider's technical specifications;
 - 10.1.5 meet the Performance Criteria in Schedule 2;
 - 10.1.6 are free from defects in materials, manufacture, workmanship and installation;
 - 10.1.7 conform to any legally applicable Australian standards or other standards nominated in this Agreement;
 - 10.1.8 are of merchantable quality;
 - 10.1.9 are installed correctly (if the Service Provider is responsible for installation); and
 - 10.1.10 are fit for their intended purpose.
- 10.2 The Service Provider warrants that it has good and unencumbered title to the Goods.
- 10.3 The Service Provider warrants that the Goods are manufactured and supplied without infringing any person's intellectual Property Rights.
- 10.4 The Service Provider warrants that the Services (if any) will:
 - 10.4.1 be provided in full, with due care and skill;
 - 10.4.2 be performed by the Service Provider and/or its Personnel; and
 - 10.4.3 be performed to the Specification.
- 10.5 The Service Provider must ensure that Coffey receives the full benefit of any manufacturer's warranties in respect of the Goods.

11. DEFECTIVE GOODS

If a Good is a Defective Good then at Coffey's election:

- 11.1 The Service Provider must replace the Defective Good within 14 calendar days (or such other time as is agreed) from notification by Coffey under this clause; or
- 11.2 The Service Provider must refund the Price paid for the Good within 30 calendar days from notification by Coffey under this clause, and notwithstanding any other provision, Coffey is not liable to pay for the defective Good.

12. SERVICE PROVIDER'S RELATIONSHIP, RESOURCES AND CONDUCT

- 12.1 The Service Provider must:
 - 12.1.1 supply the Goods in a manner that complies with all laws and codes applicable to the Service Provider's provision of the Goods,
 - 12.1.2 conduct itself in a manner that does not invite, directly or indirectly, Coffey's officers, employees or agents to behave unethically, to prefer private interests over Coffey's interests or to otherwise contravene the Code of Ethics for the Australian Government, and.
 - 12.1.3 ensure that its Personnel observe and comply with the provisions of this Agreement.
- 12.2 The Service Provider is able to subcontract or delegate work to others but remains responsible for the agreed contract outcomes.
- 12.3 The Service Provider is liable to Coffey for the acts and omissions of any subcontracted Service Provider as if they were the acts or omissions of the Service Provider.
- 12.4 The Service Provider must not assign or attempt to assign any rights under the Services Agreement without Coffey written consent.
- 12.5 Nothing in the Services Agreement (including these Conditions) constitutes a relationship of employer and employee, principal and agent, or partnership between Coffey and the Service Provider.
- 12.6 The Service Provider acknowledges that the Services Agreement (including these Conditions) do not give the Service Provider or the Service Provider's employees authority to bind Coffey.
- 12.7 The Service Provider must not and must ensure that the Service Provider's employees do not, directly or indirectly assume or create or attempt to assume or create any obligation on behalf of or in the name of Coffey.
- 12.8 The Service Provider agrees that any amount paid by Coffey under this agreement can be taken to offset against any claims of underpayment at a later date.

13. SERVICE PROVIDER'S REPRESENTATIONS

- 13.1 The Service Provider represents that prior to entering this Agreement it has made such enquiries and examined such information as it considers necessary to satisfy itself:
 - 13.1.1 as to the nature, scope extent and degree of difficulty of the services to be performed by it pursuant to this Agreement;
 - 13.1.2 as to its ability to supply the Goods to a high standard and within the time specified in this Agreement; and
 - 13.1.3 as to the availability of suitably qualified and experienced personnel, and all other facilities and information which it is required to provide for the purpose of supplying the Goods:

14. DEFECTIVE DELIVERY

If in the Coffey's reasonable opinion, the Service Provider has failed to comply with this Agreement in the supply of the Goods, Coffey may give written notice to the Service Provider, and the Service Provider must, within 14 calendar days of Coffey's notice, rectify the non-compliance and if reasonably required, must re-supply the complying Goods.

15. NO MINIMUM PURCHASE

Coffey is under no obligation to purchase a minimum quantity of Goods or Services from the Service Provider during the Term.

16. NON-EXCLUSIVITY

- 16.1 This Agreement is entered into on a non-exclusive basis.
- 16.2 Coffey may purchase other goods and services similar to the Goods and Services in this Agreement from other providers.

17. PRICE

- 17.1 In consideration for the supply of the Goods, Coffey will pay the Price.
- 17.2 The Prices include all taxes, duties or government charges imposed or levied in Australia or overseas in connection with this Agreement.
- 17.3 The Prices include all costs of compliance with the Service Provider's obligations under this Agreement. No other costs or expenses are payable by Coffey.

18. TERMS OF PAYMENT

- 18.1 The Service Provider must submit to Coffey correctly rendered invoices.
- 18.2 An invoice will be correctly rendered if:
 - 18.2.1 it complies with the requirements of the Services Agreement;
 - 18.2.2 (if appropriate and required by Coffey), it is accompanied by documentation substantiating the amount claimed.
- 18.3 Unless the Services Agreement states otherwise, Coffey will pay for the Goods or Services within 30 days after:
 - 18.3.1 completion of the Services;
 - 18.3.2 supply of goods; or
 - 18.3.3 receipt of a correctly rendered invoice for the Services; whichever is later.

19. INTELLECTUAL PROPERTY RIGHTS

- 19.1 The Service Provider must not infringe the Intellectual Property Rights of any person in performing its obligations under this Agreement.
- 19.2 All intellectual property created under the Services Agreement and relating to the Services is, from the time of creation of the right, owned by Coffey.
- 19.3 The Service Provider indemnifies Coffey, its officers, employees and agents against all loss, damage or expense arising in respect of any action or claim for alleged infringement of any patent, copyright, registered design, trade mark or any other intellectual property rights, by reason of Coffey receipt or enjoyment of the Services.

20. INDEMNITY

- 20.1 The Service Provider indemnifies, and undertakes to keep indemnified, Coffey and its employees, from and against any costs, losses, damages, expenses (including legal expenses), liabilities or other outgoings of whatever kind suffered or incurred by Coffey arising out of or in respect of:
- 20.1.1 any negligence, wrongful act or omission or breach of duty by the Service Provider or any of its Personnel;
 - 20.1.2 any breach of a warranty given under this Agreement; or
 - 20.1.3 any Event of Default or breach by the Service Provider of any of the provisions of this Agreement.
- 20.2 The Service Provider's liability to indemnify Coffey under clause 20 will be reduced proportionately to the extent that the loss or liability indemnified was contributed to by negligence by Coffey.
- 20.3 This clause will survive termination of this Agreement.

21. INSURANCE

- 21.1 The Service Provider must effect and maintain all insurance policies set out in Schedule 2.
- 21.2 The policies referred to in Schedule 2 must be in the name of the Service Provider and must cover the Service Provider and all subcontracted Service Providers for their respective rights, interests and liabilities.
- 21.3 Before supplying Goods under this Agreement, the Service Provider must provide Coffey with insurance certificates of currency for the insurances required under this clause. At any time during the Term, Coffey may require the Service Provider to provide proof that the policies of insurance are current.
- 21.4 Coffey, in specifying levels of insurance in this Agreement accepts no liability for the completeness of their listing, the adequacy of the sum insured, limit of liability, scope of coverage, conditions or exclusions of those insurances in respect of how they may or may not respond to any loss, damage or liability.
- 21.5 The Service Provider acknowledges and agrees that it is the Service Provider's responsibility to assess and consider the risks and scope of insurances required under this Agreement.

22. FORCE MAJEURE

- 22.1 Force Majeure means an event or circumstance which prevents a party ("the Affected Party") from complying with any of its obligations under this Agreement and which that the Affected Party:
- 22.1.1 did not cause;
 - 22.1.2 cannot control or influence; and
 - 22.1.3 cannot prevent or avoid through prudent management processes, policies and precautions, including the use of alternative resources, the procuring of services from another source and work around plans.
- 22.2 The Affected Party must notify the other party if the Force Majeure is preventing it from complying with any of its obligations as soon as it becomes aware of the Force Majeure.
- 22.3 The Affected Party's rights and obligations will be suspended to the extent and for so long as the performance of the Affected Party's rights and obligations are prevented or delayed by the Force Majeure.
- 22.4 The Affected Party must keep the other party informed of the continuation and expected duration of the Force Majeure and of measures taken to comply with this clause.
- 22.5 The Affected Party must recommence performance of its obligation as soon as possible without delay after the Force Majeure has ceased to exist.

23. TERMINATION

- 23.1 At any time after a default event occurs Coffey may terminate the Services Agreement with immediate effect by giving notice in writing to the Service Provider.
- 23.2 A default event will be taken to have occurred if any of the following events occurs:
- 23.2.1 the Service Provider fails to supply Goods within 14 calendar days of the Delivery Date.
 - 23.2.2 the Service Provider fails to start providing the Services on the date specified in the Services Agreement;
 - 23.2.3 the Service Provider fails to proceed at a rate likely to achieve completion of the Services by the Completion Date (if any) specified in the Services Agreement;
 - 23.2.4 the Service Provider fails to complete the Services by the Completion Date (if any) specified in the Services Agreement;
 - 23.2.5 the Service Provider ceases to provide the Services at any time during the Term (if any) specified in the Services Agreement;
 - 23.2.6 the Service Provider fails to:
 - 23.2.6.1 provide and pay for appropriate insurance as required by clause 21;
or
 - 23.2.6.2 provide Coffey with proof of appropriate insurance upon request by Coffey as required by clause 21;
 - 23.2.7 the Service Provider breaches any other provision of the Services Agreement (including these Conditions) and fails to remedy the breach within 30 days after receiving written notice requiring that to be done;
 - 23.2.8 any step is taken to enter into any arrangement between the Service Provider and the Service Provider's creditors;
 - 23.2.9 the Service Provider ceases to be able to pay the Service Provider's debts as they become due;
 - 23.2.10 the Service Provider ceases to carry on business; or
 - 23.2.11 any step is taken to appoint a receiver, a receiver and manager, a trustee in bankruptcy, a liquidator, a provisional liquidator or other like person of the whole or any part of the Service Provider's assets or business.
- 23.3 Where, before its termination of the Services Agreement under this clause 23 Coffey has paid an amount on account of the Contract Price to the Service Provider, the Service Provider must on termination repay that amount to Coffey. If not so paid, the amount is recoverable by Coffey from the Service Provider as a debt.
- 23.4 If the Services Agreement is terminated under this clause 23:
- 23.4.1 the parties are relieved from future performance without prejudice to any right of action that has accrued at the date of termination;
 - 23.4.2 rights to recover damages are not affected; and
 - 23.4.3 the Service Provider indemnifies Coffey in respect of any loss Coffey may incur in purchasing similar services from alternative suppliers.

24. TERMINATION FOR CONVENIENCE

- 24.1 If there is a policy or funding decision which impacts upon the Australia's overseas development assistance budget and associated programs, DFAT has an unfettered discretion to, by notice to Coffey International Development, terminate or reduce the scope of the Head Contract.
- 24.2 Without limiting Coffey's rights under this Contract, at law or in equity, Coffey's rights under this Clause 24.2 include the discretion to terminate or reduce the scope of this Contract if DFAT determines that the continuation of this Contract, or the continuation of a program or initiative for the purposes of which this Contract was entered into, does not support the achievement of value for money by DFAT.
- 24.3 The parties acknowledge and agree that such a determination by DFAT may be made in the absence of a breach of this Contract by the Service Provider and due to circumstances beyond the Service Provider's and Coffey's control.
- 24.4 If Coffey terminates this Agreement under this Clause 24, Coffey will only be liable to the Service Provider for the following loss or damage incurred as a direct consequence of termination of this Agreement to the extent that they can be reasonably substantiated and are unable to be avoided or mitigated:
- a. fees and any costs, as payable under Schedule 2- Prices for Goods and/or Services provided before the effective date of termination (on a pro-rata basis, if applicable); and
 - b. excluding all other loss or damage, including the cost of redundancies, the costs of terminating any subcontracts, loss of profits and all other forms of expectation loss.
- 24.5 Coffey is not obliged to make any further payments to the Service Provider (whether under this Agreement, at law or in equity) if Coffey exercises its rights in Clause 24.2 except as expressly provided under this Clause 24.

25. COMPLIANCE WITH DFAT POLICIES

The Service Provider and its Personnel will ensure it is compliant with all DFAT policies as applicable including:

- (a) the child protection compliance standards in the *Child Protection Policy* for the DFAT – Australian Aid Program, <http://dfat.gov.au/international-relations/themes/child-protection/Pages/child-protection.aspx>
- (b) Disability Action Strategy: <http://dfat.gov.au/about-us/publications/Pages/disability-action-strategy-2017-2020.aspx>
- (c) *the Family Planning and the Aid Program: Guiding Principles (2009)* for the DFAT – Australian Aid Program, accessible on the DFAT website at: www.dfat.gov.au;
- (d) information accessibility requirements contained in the *Guidelines for preparing accessible content* for the DFAT – Australian Aid Program, accessible on the DFAT website at: www.dfat.gov.au;
- (e) the *Environment Management Guide for Australia's Aid Program (2012)* for the DFAT – Australian Aid Program and the *DFAT Environment Protection Policy (2014)* accessible on the DFAT website at: www.dfat.gov.au;
- (f) *Gender Equality and Women's Empowerment Strategy 2016*' <http://dfat.gov.au/about-us/publications/Documents/gender-equality-and-womens-empowerment-strategy.pdf>
- (g) Anti-Corruption - The Australian Government supports ethical business practices, and the prosecution of those who engage in illegal practices.

- <http://dfat.gov.au/internationalrelations/themes/corruption/Pages/corruption.aspx#anti-corruption>
- (h) Counter – Terrorism - ensure that funds provided under this Contract (whether through a subcontract or not) do not provide direct or indirect support or resources to terrorism
<http://dfat.gov.au/international-relations/security/counter-terrorism/our-role/Pages/department-of-foreign-affairs-and-trade-s-counter-terrorism-role.aspx>
 - (i) *Fraud Control and Anti-Corruption Plan July 2016* <http://dfat.gov.au/about-us/publications/Documents/fraud-control-anti-corruption-plan.pdf>
 - (j) Commonwealth Procurement Rules and Guidelines
<http://www.finance.gov.au/procurement/procurement-policy-and-guidance/commonwealth-procurement-rules/>
 - (k) Commonwealth Grant Rules and Guidelines <http://www.finance.gov.au/resource-management/grants/>
 - (l) Coffey Code of Conduct and Client Service Standards (attached as Schedule 4)

EXECUTED as an Agreement

SIGNED for and on behalf of Coffey International Development Pty Ltd by:

.....
Signature

.....
Signature of Witness

.....
Name (*Print*)

.....
Name of Witness (*Print*)

.....
Date

.....
Date

SIGNED for and on behalf of [Contractor] by:

.....
Signature

.....
Signature of Witness

.....
Name (*Print*)

.....
Name of Witness (*Print*)

.....
Date

.....
Date

SCHEDULE 1

SCOPE OF SERVICE – DESCRIPTION OF GOODS - DELIVERABLES

The items in grey are indicative requirements to help you populate the Schedule.

Not all may be required and other information may need to be added

Provide a summary description of the desired range and type of goods and/or services that are required.

Identify what the supplier is **not** required to do or explain what might otherwise normally be considered to be part of the requirement.

Describe any unique or pertinent factors about the conditions/environment which can affect the design or performance of the offered solution/ methodology.

If there are limitations imposed by users of the goods and/or services, explain what those limitations are.

Describe in detail the functional, technical and performance requirements of the goods and/or services to be procured.

Describe the various **services** (all of the tasks, activities and overall work (including deliverables) that are described in or reasonably inferred by the contract) and **deliverables** (the reports, documents and other items that the supplier will develop and deliver/hand over to Coffey as a requirement of the contract). i.e. Maintenance manual or operating instructions must be in English.

Specify the proposed delivery schedule, including commencement date, milestones, completion of deliverables, and a completion date.

It may be appropriate to define some dates as indicative and others as set dates, depending on the requirements of the procurement.

Consideration should be given to whether there are any critical time frames, key dates or periods of time that the supplier must be able to service or meet.

Explain the proposed location or locations where the contract goods/services are required to be delivered.

Ensure requirements are addressed before and at the time of contract commencement including:

- if there is an incumbent supplier, how you propose the incumbent will transition out and the new supplier will transition in
- specifying the responsibilities and transitioning in tasks of the supplier and Coffey
- the requirement for detailed implementation plans and the trigger for this activity
- the transfer or purchase of assets, equipment or materials
- the leasing of office space or
- the recruitment or training of staff.

Ensure requirements are addressed at the end of the contract including:

- a description of how you propose to transition to a new supplier at the end of the contract
- the development and submission of detailed disengagement plans and the trigger for this activity
- the finalisation of reports
- handover of documents and data / intellectual property
- the return of loaned items or unused materials
- the return by the supplier of any electronic/hard copies of contract documentation, or confidential

documentation relevant to the provision of the contract

- the return of any premises, infrastructure in equivalent condition to when it was handed over
- confirmation of relevant and approved archiving or document destruction practices.

Refer to other documents in order to avoid duplicating content from some or all of those documents. Include a clear list of each document and their location. Make sure that you clearly specify the name of the document and where a copy can be obtained.

SCHEDULE 2

SERVICE PROVIDER:	
PROJECT:	
COMMENCEMENT DATE:	
COMPLETION DATE:	
LOCATION / DELIVERY ADDRESS:	

PRICES:

The total amount payable for the Goods and/or Services shall not exceed the sum of up to: AUD XXXXX excluding GST. Coffey International Development shall not be liable for any costs or expenditure incurred by the Service Provider in excess of this amount, unless previously approved by Coffey International Development via a contract variation.

PAYMENTS:

How is it going to be paid?

On delivery

Milestone Payments

% up front then on delivery

CLAIMS FOR PAYMENT:

The Service Provider claims for payment must be submitted when due pursuant to this Schedule in a form identifiable with the Services.

All claims for payment must include a certification by a duly authorised representative:

- i. that the invoice has been correctly calculated;
- ii. that the services included in it have been performed in accordance with this agreement.

All claims for payment must be made to:

XXXX

Senior Project Manager

Coffey International Development

33 Richmond Road Keswick SA 5035

Email: @coffey.com

Coffey need not pay an amount that is disputed in good faith by Coffey until the dispute is resolved.

PERFORMANCE CRITERIA:

Specify the key 3 or 4 performance indicators (KPIs) for the procurement. Ensure that these KPIs are:

- S - specific
- M - measurable
- A - achievable
- R - relevant
- T - time bound

WARRANTY PERIOD:

INSURANCE POLICIES REQUIRED:

Public Liability: AUD20 Million

Professional Indemnity: AUD5 Million

Workers Compensation: As legislated

REPRESENTATIVES

Coffey's Representative

Name:

Position:

Email:

Service Provider's Representative

Name:

Position:

Email:

SCHEDULE 3
SERVICE PROVIDER'S PROPOSAL

SCHEDULE 4

Coffey International Development

Code of Conduct and Client Service Standards

Purpose

The purpose of a Code of Conduct and Client Service Standards is to provide a framework for decisions and actions in relation to our Employees' conduct both in employment and as Coffey International Development representatives in front of our clients. It underpins our commitment to a duty of care to all Employees, stakeholders and clients receiving our services. The document explains the principles covering appropriate conduct in a variety of contexts and outlines the minimum standard of behaviour and client service expected from Employees.

It is important for Coffey International Development staff and team members to understand that its clients are contracting and paying Coffey to be a professional, responsive and proficient contractor. In the context of this, Coffey staff and team members are not to approach clients for solutions or additional inputs for every problem, rather they should be able to identify and quickly address and solve problems in activity management.

Scope

This policy applies to all Employees of Coffey International Development and all of its subsidiaries and related entities.

This policy applies in respect of conduct which relates to or is connected with, in any way, work with a Coffey company, or in connection with a Coffey Group Company provided benefit. This includes, but is not limited to, Employees who are:

- on Company premises;
- while on duty in any place where Employees of any Coffey company are working;
- representing a Coffey company;
- at a work function organised by a Coffey company;
- travelling for business related purposes.

Definitions

“Company Premises” means any place or thing used by any Coffey company in the course of conducting its business (whether or not owned by or within the exclusive control of a Coffey company) including, but not limited to:

1. vehicles
2. offices
3. car parks
4. client worksites
5. demountables
6. workshops
7. warehouses
8. kitchens.

“Employees” means Employees as well as other non-Employees (such as independent and sub-contractors) who perform work for a Coffey Group Company.

Responsibilities

Managers and Supervisors

Managers and supervisors are responsible and accountable for:

- Undertaking their duties and behaving in a manner that is consistent with the provisions of the Code of Conduct and Client Service Standards
- The effective implementation, promotion and support of the Code of Conduct and Client Service Standards in their areas of responsibility
- Ensuring Employees under their control understand and follow the provisions outlined in the Code of Conduct and Client Service Standards.

Employees

All Employees are responsible for:

- Undertaking their duties in a manner that is consistent with the provisions of the Code of Conduct and Client Service Standards
- Reporting suspected corrupt conduct
- Reporting any departure from the Code of Conduct and Client Service Standards by themselves or others.

Code of Conduct

Coffey International Development is a complex organisation, which involves a diversity of relationships. These relationships may be defined by differences in power, status, cultural diversity, organisational structures, contracting relationships, differing country laws, labour laws, international relationships and or national governments. It is essential in such a community that all Employees

recognise and respect not only their own rights and responsibilities but also the rights and responsibilities of other members of the community and those of Coffey.

Coffey also recognises that many of their professional employees are also bound by codes of conduct or ethics defined by learned or professional societies or groups. It is recognised that these codes are not always in harmony. It is an obligation of an Employee to weigh the importance of these codes in each particular set of circumstances and notify an appropriate officer of Coffey where such conflict may arise.

Personal and Professional Behaviour

You should not behave in a way which has the intent or effect of offending or embarrassing other Employees or the public in a manner contrary to legislative requirements.

When carrying out your duties, you will:

- Obey any lawful direction from a person who has the authority to give the direction. If you have a dispute about carrying out a direction you may appeal to your senior manager.
- Behave honestly and with integrity. You will avoid behaviour that could suggest that you are not following these principles. This will include a duty to report other Employees who are behaving dishonestly.
- Make sure that you carry out your work efficiently, economically and effectively as you are able and that the standard of your work reflects favourably on yourself and the company.
- Follow the policies of the company in all aspects of work to achieve outcomes that are socially responsible and sustainable.
- Treat Employees, clients and stakeholders with respect.
- Maintain individuals' rights to privacy and undertake to keep personal information in confidence.
- Do not use, possess or distribute pornographic or offensive materials.
- Comply with all national and international laws.
- When representing the Company in public forums:
 1. Employees at all levels represent the Company in the course of their employment including when travelling on Company business, attending functions on behalf of the Company or internal Company meetings, conferences, training programs, seminars or any other function.
 2. Your behaviour in all these circumstances reflects on the Company and its image. As such, you should act in an appropriate business-like manner that will in no way harm the image of the Company or infringe any other Company policy including the Discrimination Free Workplace Policy.
 3. Where any Company function or meeting is held that involves the availability of alcohol, steps should be taken to ensure that it is not abused. You should be aware that being work-related, behaviour in those situations can be subject to disciplinary procedures.

Conflict of Interest

Potential for conflict of interest arises when it is likely that you could be influenced, or it could be perceived that you are influenced by a personal interest when carrying out your duties. Conflicts of interest that lead to biased decision making may constitute corrupt conduct.

Some situations that may give rise to a conflict of interest include situations where you have:

- Financial interests in a matter the company deals with or you are aware that your friends or relatives have a financial interest in the matter;
- Directorships/Management of outside organisations;
- Membership of Boards of outside organisations;
- Personal relationships with the people the company is dealing with which go beyond the level of a professional working relationship;
- Secondary employment, business, commercial, or other activities outside of the workplace which impacts on clients and/or Employees of the company;
- Involvement in party political activities;
- Access to information that can be used for personal gain.

You may often be the only person aware of potential for conflict. Therefore it is your responsibility to avoid any financial or other interest that could compromise your ability to perform your duties impartially. It is also your responsibility to report any potential or actual conflicts of interest to your manager.

If you are uncertain whether a conflict exists, you should discuss that matter with your manager and attempt to resolve any conflicts that may exist.

You must not submit or accept any bribe, or other improper inducement. Any advances of this nature are to be reported to senior management. If you are dealing with, or having access to, sensitive information, you should be particularly alert to inappropriate attempts to influence you.

Outside employment/other external business activities

If you work full time for the company and you wish to engage in paid employment/other business activities (including participation in family company) outside your official duties you are required to seek the approval of your manager and Human Resources. The approval should not be unreasonably withheld. However if there is any real or potential conflict of interest the duties of your position with the company must come first.

If you work for the company on a part time or casual basis, you are required to advise your manager and Human Resources of any real or potential conflict of interest between your employment for the company and any other employment.

The company can request the details of any other employment in the event of allegations of conflict of interest.

Public Comment

Individuals have a right to give their opinions on political and social issues in their private capacity as members of the community.

Employees must not make official comment on matters relating to the company unless they are:

- authorised to do so by the General Manager and CEO

- giving evidence in court
- otherwise authorised or required to by law.

Employees cannot release the contents of unpublished or privileged knowledge unless they have the authority to do so.

Use of Company Resources

Employees must ensure responsible management and security in the use of Coffey resources and any resources managed by them for or on behalf of others.

Requests to use company resources outside core business time should be referred to management (or person authorised to handle such matters), for approval.

If Employees are authorised to use company resources outside core business times they must take responsibility for maintaining, replacing, and safeguarding the property and following any special directions or conditions which apply. Company resources can include equipment, typing facilities, photocopiers, computers, tools, motor vehicles etc.

Employees using company resources **without** obtaining prior approval could face disciplinary and/or criminal action. Company resources are not to be used for any private commercial purposes (e.g. for 'profit' purposes) under any circumstances.

Security of Information

Employees are to make sure that confidential and sensitive information in any form (e.g. documents, computers files) cannot be accessed by unauthorised persons. Sensitive material should be securely stored overnight or when unattended.

Employees must ensure that confidential information is only discussed with people who are authorised to have access to it. It is considered a serious area of misconduct to deliberately release confidential documents or information to unauthorised persons, and may incur disciplinary action.

Intellectual Property/Copyright

The term 'intellectual property' includes the rights relating to scientific discoveries, industrial designs, trademarks, service marks, commercial names and designations, and inventions.

Coffey is the owner of intellectual property created by Employees in the course of employment unless a specific prior agreement has been made. Employees must clarify the intellectual property position before making any use of that property.

Discrimination, Harassment and Workplace Bullying

Employees must not harass, discriminate against, or support others who harass and discriminate against colleagues or members of the public on the grounds of sex, pregnancy, marital status, age, race (including their colour, nationality, descent, ethnic or religious background), physical or intellectual impairment, homosexuality or transgender. Employees also must not participate in any form of workplace bullying or support others who do so.

Any employee who uses any of Coffey's resources to perpetrate harassment or domestic violence (e.g. use of work phones, use of cars, use of workspaces etc.) will be subjected to disciplinary processes, which may include termination of their employment.

Managers must make sure that the workplace is free from all forms of harassment, unlawful discrimination and workplace bullying. They should understand and apply the principles of Equal Employment Opportunity and ensure that the Employee they supervise are informed of these principles and are made aware of the Grievance Handling procedures.

In addition, Coffey does not condone any form of domestic violence and is committed to ensuring the Employees are provided with information, training and support on how to effectively address domestic violence.

Child Protection

For the purposes of this Code of Conduct and Client Service Standards, a child is any person under the age of 18 years.

The onus is on all Employees to use common sense and avoid actions or behaviours that could be construed as child exploitation and abuse when working for Coffey.

When carrying out your duties, you will:

- treat children with respect regardless of race, colour, gender, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status;
- not use language or behaviour towards children that is inappropriate, harassing, abusive, sexually provocative, demeaning or culturally inappropriate;
- not engage children under the age of 18 in any form of sexual intercourse or sexual activity, including paying for sexual services or acts;
- wherever possible, ensure that another adult is present when working in the proximity of children;
- not invite unaccompanied children into your home, unless they are at immediate risk of injury or in physical danger;
- not sleep close to unsupervised children unless absolutely necessary, in which case you will obtain your supervisor's permission, and ensure that another adult is present if possible;
- use any computers, mobile phones, video cameras, cameras or social media appropriately, and never to exploit or harass children or to access child exploitation material through any medium;
- not use physical punishment on children;
- not hire children for domestic or other labour which is inappropriate given their age or developmental stage, which interferes with their time available for education and recreational activities, or which places them at significant risk of injury;
- comply with all relevant Australian and local legislation, including labour laws in relation to child labour;
- immediately report concerns or allegations of child exploitation and abuse and policy non-compliance in accordance with appropriate procedures; and

- immediately disclose all charges, convictions and other outcomes of an offence, which occurred before or occurs during your association with Coffey that relate to child exploitation and abuse.

When photographing or filming a child or using children's images for work related purposes, you will:

- assess and endeavour to comply with local traditions or restrictions for reproducing personal images before photographing or filming a child;
- obtain informed consent from the child and parent or guardian of the child before photographing or filming a child and in doing so, you must explain how the photograph or film will be used;
- ensure photographs, films, videos and DVDs present children in a dignified and respectful manner and not in a vulnerable or submissive manner. Children should be adequately clothed and not in poses that could be seen as sexually suggestive;
- ensure images are honest representations of the context and the facts; and
- ensure file labels, meta data or text descriptions do not reveal identifying information about a child when sending images electronically or publishing images in any form.

Breaches of this child protection Code of Conduct and Client Service Standards may result in disciplinary and/or criminal action.

Corrupt Conduct

Commonly it involves the dishonest or partial use of power or position which results in one person/group being advantaged over another. Corruption can take many forms including, but not limited to:

- official misconduct;
- bribery and blackmail;
- unauthorised use of confidential information;
- fraud; and
- theft.

Any form of corrupt conduct will not be tolerated by the company. Disciplinary action up to and including dismissal will be taken in the event of any Employee participating in corrupt conduct.

Occupational Health & Safety

It is the responsibility of all Employees to act in accordance with the occupational health and safety legislation, regulations and policies and their respective organisations and use security and safety equipment provided.

Specifically all Employees are responsible for safety in their work area by:

- following the safety and security directives of management;
- advising management of areas where there is a potential problem in safety and reporting suspicious occurrences; and
- minimising risks in the workplace.

Conduct of Current / Former Employees

Employees should not misuse their position to obtain opportunities for future employment.

Employees should not allow themselves or their work to be influenced by plans for, or offers of employment outside of Coffey. If they do there is a conflict of interest and their integrity and that of Coffey is at risk.

Former Employees should not use or take advantage of confidential information obtained in the course of their official duties that may lead to gain or profit, until it has become publicly available.

Client Service Standards

All Coffey International Development staff and team members are committed to the following Client Service Standards:

- Implement activities professionally, with a focus on quality, developmental impact and long term sustainability and with proper regard to cross-cutting development policies, such as gender and the environment, and the whole-of-government approach to development.
- Maintain productive relationships with their counterpart Government and activity stakeholders. This includes a genuine focus on transferring skills to counterparts and promoting counterparts' longer term 'ownership' throughout the delivery of the activity.
- Focus on achieving results and outcomes in a manner that is always accountable and demonstrates probity, procedural fairness and value for money.
- Take responsibility for progress of activities, consulting actively with the client and their counterpart on important problems and issues.
- Use experience and judgement to identify substantive problems in advance and then approach the client (and where appropriate the counterpart) with well-considered, well costed, options and recommendations.
- Demonstrate value adding, innovation, analytical rigour and quality assurance in project or activity management. This includes ensuring quality, clarity and accuracy of reporting, invoicing and financial management.
- Promote high standards of personal conduct/behaviour, teamwork and respect at all times. Lapses in these areas undermine relationships with counterparts, undermine activity effectiveness and reflect poorly on the client.
- Never make decisions that are the proper preserve of foreign governments and/or the funding agency, which alter the substance of the activity or create 'surprises' for the client or the counterpart.

Breaches of the Code of Conduct and Client Service Standards

Employees should note that breaches of certain sections of this Code of Conduct and Client Service Standards may be punishable under laws and legislation.

Breaches of this Code of Conduct and Client Service Standards may lead to disciplinary action. The process for disciplinary action is outlined in Coffey policies and guidelines, relevant industrial awards and agreements.

I acknowledge that I have read and understood the above Code of Conduct and Client Service Standards and will comply with its contents.

Name	
Position	
Company	
Signature	

Acknowledged by Coffey International Development Pty Ltd

Name	
Signature	