

CONSULTANCY AGREEMENT (VIA A SERVICE COMPANY LONG FORM)

This agreement is dated:

Parties

- (1) **DEVELOPMENT PATHWAYS LIMITED** incorporated and registered in England and Wales with company number 07408331 whose registered office is First Floor, Marlesfield House, 114-116, Main Road, Sidcup, DA14 6NG, United Kingdom (**Development Pathways**).
- (2) **[INSERT COMPANY NAME]** incorporated and registered in **[Country]** with **[company/business number]** whose registered office is **[Address]** (**Consultant Company**).

Agreed terms

1. Interpretation

The following definitions and rules of interpretation apply in this agreement (unless the context requires otherwise).

1.1 Definitions:

Applicable Law: any law, statute, regulation, by-law or subordinate legislation in force from time to time in any jurisdiction that the Services are provided and/or to which Development Pathways and/or the Consultant Company and/or its Specified Personnel are subject.

Applicable Data Protection Laws:

(a) to the extent the UK GDPR applies, the law of the United Kingdom or of a part of the United Kingdom which relates to the protection of personal data;

(b) to the extent the EU GDPR applies, the law of the European Union or any member state of the European Union to which Development Pathways is subject, which relates to the protection of personal data; and

(c) to the extent the UK GDPR or the EU GDPR does not apply, such law that applies in the jurisdiction to which Development Pathways is subject, which relates to the protection of personal data.

Background Intellectual Property: the Intellectual Property detailed in Item 1.7 of Schedule 1 and any other Intellectual Property that is created, invested, authored or developed and owned or created by the Consultant Company before the Commencement Date.

Board: the board of directors of Development Pathways (including any committee of the board duly appointed by it).

Business of Development Pathways: multi-disciplinary international development management and consulting.

Business Opportunities: any opportunities which the Consultant Company or its Personnel becomes aware of during the Engagement which relate to the Business of Development Pathways or which the Board reasonably considers might be of benefit to Development Pathways.

Capacity: as agent, Consultant Company, director, employee, owner, partner, shareholder or in any other capacity.

Client/s: means the party\ies specified under Item 1.6 of Schedule 1

Confidential Information: information in whatever form (including without limitation, in written, oral, visual or electronic form or on any magnetic or optical disk or memory and wherever located) relating to the business, customers, Clients, suppliers, products, affairs and finances of Development Pathways for the time being confidential to Development Pathways and trade secrets including, without limitation, technical data and know-how relating to the Business of Development Pathways or any of its suppliers, customers, clients, agents, distributors, shareholders, management or business contacts, including Clients, and including information that the Consultant Company creates, develops, receives or obtains in connection with the Engagement, whether or not such information (if in anything other than oral form) is marked confidential.

Consumption Tax: refers to any applicable duty, tax or other government charge (including UK VAT or Australian goods and services tax) imposed on a party whether by way of direct assessment, withholding or otherwise, but does not include any related fines, interest or penalties.

Deemed Employment: an engagement to which section 61M(1)(d) of the Income Tax (Earnings and Pensions) Act 2003 applies.

Deliverables: any outputs of the Services and any other documents or materials provided by the Consultant Company to Development Pathways as specified in Schedule 1 and any other records, reports, documents, papers, drawings, designs, transparencies, photos, graphics, logos, typographical arrangements, software, and all other materials in whatever form, including but not limited to hard copy and electronic form, prepared by the Consultant Company or provided to Development Pathways by the Consultant Company in connection with the provision of the Services.

DP Property: all documents, books, manuals, materials, records, correspondence, papers and information (on whatever media and wherever located) relating to the Business or affairs of Development Pathways or its Clients and business contacts and any equipment, keys, hardware or software provided for the Consultant Company's use by Development Pathways during the Engagement, and any data or documents (including copies) produced, maintained or stored by the Consultant Company on Development Pathways or the Consultant Company's computer systems or other electronic equipment during the Engagement.

Development Pathways Representative/s: the Development Pathways representative or any replacement appointed in writing by Development Pathways, as specified in Item 1.2 of Schedule 1.

Engagement: the engagement of the Consultant Company for the Term by Development Pathways on the terms of this agreement.

EU GDPR: the General Data Protection Regulation ((EU) 2016/679).

Flow Down Terms: means the provisions set out in Schedule 3 as amended from time to time.

Force Majeure Event means an act of war (whether declared or not) or terrorism, the mobilisation of armed forces, civil commotion or riot, natural disaster, pandemic, industrial action or labour disturbance other than in the Contactor's workforce, currency restriction, embargo, action or inaction by a government body, a failure of a public utility or common carrier, computer disruption due to the effects of a virus or other malicious code introduced other than through the acts or omissions of the party seeking relief or any other event that prevents or adversely affects performance of this Agreement and which was not preventable or capable of being mitigated by reasonable risk management measure by the party seeking relief.

Head Contract: means the contract between Development Pathways and its Client.

Home Location: as defined in Item 1.4 of Schedule 1.

Intellectual Property Rights: patents, utility models, rights to Inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Invention: any invention, idea, discovery, development, improvement or innovation made by the Consultant Company or by its Personnel in the provision of the Services, whether or not patentable or capable of registration, and whether or not recorded in any medium.

Mandatory Policies: all policies and procedures listed in this Consultant Company Agreement including Schedule 1, Schedule 2 and Schedule 3, as may be amended from time to time.

Off-payroll Working rules: the rules in Chapter 10 of Part 2 of the Income Tax (Earnings and Pensions) Act 2003.

Personnel: means the Consultant Company's employees, officers, agents, contractors or subcontractors (including their respective personnel) and Specified Personnel.

Privacy Laws: means the *Privacy Act 1988* (Cth) and any other legislation imposing an obligation in relation to the collection, use, disclosure, storage or transmission of personal information (including health information), including any regulations, rules, codes, principles or guidelines contained in or arising out of such legislation.

Project means the project described under Item 1.6 of Schedule 1

Services: the services to be provided by the Consultant Company as described item 1.6 of Schedule 1.

Specified Personnel: as defined in Item 1.4 of Schedule 1.

Substitute: a substitute engaged by the Consultant Company under the terms of clause 3.5 (Duties and obligations).

Suspension Date: the date on which this agreement is suspended by Development Pathways.

Term: the term of this Consultant Company Agreement as defined in clause 2.2.

Termination Date: the date of termination of this agreement, howsoever arising. **UK GDPR:** has the meaning given to it in the Data Protection Act 2018.

UK VAT: value added tax chargeable under the UK Value Added Tax Act 1994.

VAT: value added tax or any equivalent tax chargeable in the UK or elsewhere.

- 1.2 The headings in this agreement are inserted for convenience only and shall not affect its construction.
- 1.3 A reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.4 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.5 The Schedules form part of this agreement and will have effect as if set out in full in the body of this agreement. Any reference to this agreement includes the Schedules.
- 1.6 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

2. Term of Engagement

- 2.1 Development Pathways shall engage the Consultant Company, and the Consultant Company will make available to Development Pathways the Specified Personnel to provide the Services on the terms of this agreement.
- 2.2 The Engagement and Services will commence in accordance with Schedule 1 Commencement Date, and will continue in accordance with Schedule 1 End Date, or if earlier, until the completion of the Services to the satisfaction of Development Pathways, or unless terminated earlier:
 - (a) as provided by the terms of this agreement; or
 - (b) in accordance with clause 11 (Termination or suspension), by Development Pathways at any time for any reason by giving the Consultant Company a written notice; or
 - (c) by Development Pathways issuing a notice of immediate termination to the Consultant Company where:
 - (i) a breach is not capable of remedy; or
 - (ii) does not remedy a breach of this Contract which is capable of remedy within the period specified by Development Pathways in a notice of default issued by Development Pathways to the Consultant Company requiring the Consultant Company to remedy the breach; or

- (d) by Development Pathways issuing a notice of immediate termination to the Consultant Company if the Head Contract is terminated, or the scope of Development Pathways services under the Head Contract is varied such that the Services are no longer required; or
 - (e) by the Consultant Company giving Development Pathways not less than six weeks' prior written notice.
- 2.3 The Consultant Company will not, without the prior written approval of Development Pathways, begin providing the Services nor will the Consultant Company be due any payment under this agreement until all necessary work permits and regulatory and Client consents are in place.
- 2.4 The Consultant Company shall be responsible for obtaining any necessary work permit or visa required by the Specified Personnel to provide the Services, where it is possible to do so on behalf of the Specified Personnel including any associated costs.
- 2.5 The date of the Specified Personnel's mobilisation or short-term travel to the location where they will deliver the Services, as specified in Item 1.6 of Schedule 1, shall be confirmed in writing by Development Pathways. Mobilisation and travel are dependent on Development Pathways being satisfied that the Specified Personnel's health or safety will not be unduly compromised by travelling to and being based in the location where they will deliver the Services.

3. Duties and obligations

- 3.1 During the Engagement the Consultant Company and its Specified Personnel must:
 - (a) provide the Services, including the Deliverables, with all due care, skill and ability and use their best endeavours to promote the interests of Development Pathways;
 - (b) devote such time as may be necessary for the proper performance of the Services and ensure that the Deliverables conform in all respects with, and are achieved by any deadlines specified in, Schedule 1 and that the Deliverables will be fit for any purpose expressly or implicitly made known to the Consultant Company by Development Pathways;
 - (c) cooperate with Development Pathways and/or Development Pathways' Clients to enable Development Pathways and/ or Development Pathways' Clients to undertake such vetting procedures and checks as Development Pathways and/or Development Pathways' Clients may require on the Consultant Company and/or its Specified Personnel and/or on any Substitute; and
 - (d) promptly give to the Board all such information and reports as it may reasonably require in connection with matters relating to the provision of the Services, including the Deliverables, or the Business of Development Pathways.
- 3.2 The Consultant Company warrants that it is properly licenced, certified or accredited as required by applicable law and are suitably skilled, experienced and qualified to perform the Services.

- 3.3 The Consultant Company must not use the DP Property for any purpose other than for which it was designed, manufactured or constructed and in relation to providing the Services during which the Consultant Company must protect the DP Property from loss or damage and maintain the DP Property in good order.
- 3.4 If the Specified Personnel is unable to provide the Services due to illness or injury, the Consultant Company must advise Development Pathways of that fact as soon as reasonably practicable. For the avoidance of doubt, no fee shall be payable in accordance with clause 5 (Fees) in respect of any period during which the Services are not provided.
- 3.5 The Consultant Company may, with the prior written approval of Development Pathways and subject to the following proviso, appoint a suitably qualified and skilled Substitute to perform the Services instead of the Specified Personnel, provided that the Substitute will be required to enter into direct undertakings with Development Pathways, including with regard to the Special Conditions in Schedule 3 and confidentiality. If Development Pathways accepts the Substitute (in its discretion), the Consultant Company shall continue to invoice Development Pathways in accordance with clause 5 (Fees) and shall be responsible for the remuneration of the Substitute. For the avoidance of doubt, the Consultant Company will continue to be subject to all duties and obligations under this agreement for the duration of the appointment of the Substitute.
- 3.6 Unless they have been specifically authorised to do so by Development Pathways in writing:
- (a) neither the Consultant Company nor its Specified Personnel must have any authority to incur any expenditure in the name of or for the account of Development Pathways; and
 - (b) the Consultant Company must not, and must ensure that its Specified Personnel will not, hold themselves out as having authority to bind Development Pathways or its Client/s.
- 3.7 The Consultant Company and its Specified Personnel must, comply with all reasonable standards of safety and comply with Development Pathways' health and safety procedures from time to time in force at the places where the Services are provided and report to Development Pathways any unsafe working conditions or practices.
- 3.8 At all times the Consultant Company and its Specified Personnel must, comply with the Applicable Law and the Mandatory Policies as the same may be updated from time to time.
- 3.9 The Consultant Company represents and warrants that it has read and understood the Mandatory Policies.
- 3.10 When requested, the Consultant Company must complete and return to Development Pathways the "Policy Declaration Form" provided to the Consultant Company by Development Pathways together with the information requested in such form.
- 3.11 The Consultant Company must co-operate fully with Development Pathways in connection with any investigation made by Development Pathways as a result of any breach or alleged breach by the Consultant Company (or its Specified Personnel) of any Mandatory Policy.

- 3.12 The Consultant Company acknowledges and accepts that Development Pathways may have a duty to inform any organisation that engages or proposes to engage the Consultant Company or its Specified Personnel of any investigation made by Development Pathways as a result of any breach or alleged breach by the Consultant Company (or its Specified Personnel) of any Mandatory Policy.
- 3.13 Unless otherwise instructed and/or agreed in writing by Development Pathways, the Consultant Company shall provide a laptop and such other standard work equipment to enable its Specified Personnel to carry out the Services. If the Consultant Company fails to provide a laptop or other necessary standard work equipment Development Pathways may provide the Consultant Company with the same to be returned at the end of the agreement and Development Pathways may charge the Consultant Company for its use.
- 3.14 The Consultant Company and its Specified Personnel undertakes to Development Pathways that during the Engagement they will take all reasonable steps to offer (or cause to be offered) to Development Pathways any Business Opportunities as soon as practicable after the same shall have come to their knowledge and, in any event, before the same shall have been offered by the Consultant Company or its Specified Personnel (or caused by the Consultant Company or its Specified Personnel to be offered) to any third party.
- 3.15 The Consultant Company and its Specified Personnel must:
- (a) comply with all applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 and National Anti-Corruption Commission Act 2022 (Cth) (**Relevant Requirements**);
 - (b) not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;
 - (c) comply with Development Pathways' ethics and anti-bribery policy which Development Pathways may update from time to time (**Relevant Policy**);
 - (d) promptly report to Development Pathways any request or demand for any undue financial or other advantage of any kind received by the Consultant Company in connection with the performance of this agreement;
 - (e) ensure that all persons associated with the Consultant Company or other persons who are performing services in connection with this agreement comply with this clause 3.15; and
 - (f) whenever requested by Development Pathways, certify to Development Pathways in writing their compliance with this clause 3.15. The Consultant Company shall provide such supporting evidence of compliance as Development Pathways may reasonably request.
- 3.16 Failure to comply with clause 3.15 may result in the immediate termination of this agreement.
- 3.17 The Consultant Company and its Specified Personnel must:
- (a) not engage in any activity, practice or conduct which would constitute either:

- (i) a UK tax evasion facilitation offence under section 45(1) of the Criminal Finances Act 2017; or
 - (ii) a foreign tax evasion facilitation offence under section 46(1) of the Criminal Finances Act 2017;
 - (b) have and must maintain in place throughout the term of this agreement such policies and procedures as are reasonable in all the circumstances to prevent the facilitation of tax evasion by another person (including without limitation Personnel of the Consultant Company and any Substitute), in accordance with any guidance issued under section 47 of the Criminal Finances Act 2017;
 - (c) promptly report to Development Pathways any request or demand received by the Consultant Company or its Specified Personnel from a third party to facilitate the evasion of tax within the meaning of Part 3 of the Criminal Finances Act 2017 or any suspected tax evasion offences or facilitation of tax evasion offences, whether under UK law or under the law of any foreign country, in connection with the performance of this agreement;
 - (d) ensure that all persons associated with the Consultant Company or other persons who are performing services in connection with this agreement comply with this clause 3.17; and
 - (e) whenever requested by Development Pathways, certify to Development Pathways in writing signed by an officer of the Consultant Company compliance with this clause 3.17 by the Consultant Company and all persons associated with it, including its Specified Personnel, and all other persons for whom the Consultant Company is responsible under clause 3.15(d). The Consultant Company shall provide such supporting evidence of compliance as Development Pathways may reasonably request.
- 3.18 Failure to comply with clause 3.17 may result in the immediate termination of this agreement.
- 3.19 Specified Personnel may benefit from Development Pathways' business travel insurance (subject to its exclusions) but this insurance does not include health cover. The Consultant Company must take out and effect sufficient health cover which provides for adequate compensation for any personal injuries, sickness or other accidents that its Specified Personnel may suffer in connection with the provision of the Services and any associated travel.
- 3.20 When requested, the Consultant Company shall complete and return to Development Pathways the "Policy Declaration Form" provided to the Consultant Company by Development Pathways together with the information requested in such form.
- 3.21 The Consultant Company and its Personnel must, promptly give to the Board all such information and documentation as it may reasonably require from time to time in order for Development Pathways to determine whether the Engagement is or will be within the Off-payroll Working rules and is or will be Deemed Employment and, if Development Pathways determines the Engagement is Deemed Employment, in order to comply with any obligation on Development Pathways to deduct and account for tax or national insurance contributions from the fees due under this agreement. The Consultant Company and its Personnel must promptly inform the Board of any

material change to any information or documentation previously provided in compliance with this clause and must also promptly provide any other information or documentation that it considers (or ought reasonably consider) to be materially relevant to determining whether the Engagement is Deemed Employment. Development Pathways reserves the right to amend the terms of the Engagement, and this agreement, if the Engagement is determined to be Deemed Employment.

4. Compliance with the requirements of Development Pathways' Clients

4.1 The Consultant Company acknowledges that Development Pathways may be engaging the Consultant Company to help Development Pathways deliver Services to one or more of Development Pathways' Clients and that in connection with the delivery of such Services Development Pathways may be acting as a prime contractor or as a subcontractor or in another capacity. Subject to clause 4.2, the Consultant Company and its Specified Personnel must:

- (a) not, unless expressly required by the other terms of this agreement or unless expressly agreed in writing by Development Pathways, do anything or omit to do anything that causes or may cause Development Pathways to be in breach of any of its contracts with its Clients;
- (b) co-operate fully as required by Development Pathways to help Development Pathways meet the requirements of its contracts with its Clients;
- (c) comply with the Flow Down Terms set out at Schedule 3 at all times;
- (d) not, unless expressly required by the other terms of this agreement or unless expressly agreed in writing by Development Pathways, do anything or omit to do anything that causes or may cause Development Pathways to be in breach of any policy or statement of supplier standards issued by any Client or other agencies involved in a project that Development Pathways is also involved in; and
- (e) co-operate fully as required by Development Pathways to help Development Pathways meet the requirements of any policy or statement of supplier standards issued by any Client or other agencies involved in a project that Development Pathways is also involved in.

4.2 Development Pathways shall provide the Consultant Company with such information as the Consultant Company reasonably requires to enable the Consultant Company to comply with the provisions of clause 4.1.

4.3 The Consultant Company agrees that Development Pathways may modify the Services by reducing their scope in the event that its Client requests this or Development Pathways considers that it is in its commercial interests to do so. The Consultant Company acknowledges that any such modification may entail a reduction in the budget for the Services and therefore a reduction of the maximum total fees payable to the Consultant Company as provided for in clause 5.1.

5. Fees

5.1 Subject to clause 5.2, Development Pathways shall pay the Consultant Company Fees in accordance with Schedule 1 Service Fees. The fees are inclusive of all taxes, levies and duties

including VAT with the exception of the relevant Consumption Tax, which the Consultant Company shall charge where applicable. The fees cover the charge for the Services and all of the Consultant Company's costs and expenses save as expressly set out in this agreement. Payment of the Consultant Company's fee is subject to, amongst other things, its Specified Personnel (or any Substitute) spending at least 8 hours per day on delivering the Services (if the Consultant Company is paid a daily rate), or if the Consultant Company is paid a monthly rate, on the basis of the Specified Personnel (or any Substitute) spending at least 8 hours per Business Day in any month on delivering the Services. The Consultant Company will provide Development Pathways with time sheets satisfactory to Development Pathways to evidence the time its Specified Personnel (or any Substitute) spends delivering the Services.

- 5.2 The Consultant Company's fees and expenses shall be paid in accordance with this agreement subject to Development Pathways having first received the relevant corresponding amounts from the Client.
- 5.3 The Consultant Company's fees and expenses shall be paid in accordance with this agreement subject to Development Pathways being satisfied with the Consultant Company's performance of the Consultant Company's obligations under this agreement.
- 5.4 Development Pathways shall not pay the Consultant Company for any work provided by the Consultant Company that is out-of-scope of the Services, or which fails to meet the requirements of the Services.
- 5.5 Development Pathways reserves the right to make adjustments to the scope of the Services and the requirements of the Services, for example, to take into account changes in Development Pathways' or the Client's requirements. The Consultant Company acknowledges that any changes to the Scope of the Services and/or the requirements of the Services may impact upon the fees payable to the Consultant Company.
- 5.6 The Consultant Company must at all times comply with the invoicing requirements, as detailed in Schedule 1 Scope of Services, Schedule 1 Service Fees, and Schedule 1 Reimbursable Expenses, in connection with the submission of invoices, timesheets, expense requests.
- 5.7 In consideration of the provision of the Services during the Engagement, Development Pathways shall pay each invoice properly submitted by the Consultant Company within thirty calendar days of receipt of the relevant corresponding amounts from the relevant Client.
- 5.8 Should Development Pathways become required by law to deduct income tax and national insurance contributions from the fees, Development Pathways shall inform the Consultant Company of the deadline by which invoices must be submitted for payment to be included in the next monthly payroll and payment shall not be made until the Consultant Company has supplied to Development Pathways all relevant information, in accordance with clause 3.19, required for the purpose of making the relevant deductions.
- 5.9 The Consultant Company must not be entitled to the reimbursement of any expenses save as expressly permitted under Schedule 1 Reimbursable Expenses.

5.10 Development Pathways shall be entitled to deduct from the Service Fees (and any other sums) due to the Consultant Company any sums that the Consultant Company or its Specified Personnel may owe to Development Pathways at any time.

5.11 Payment in full or in part of the fees or expenses claimed under this clause 5 shall be without prejudice to any claims or rights of Development Pathways against the Consultant Company in respect of the provision of the Services.

6. Other activities

6.1 Nothing in this agreement shall prevent the Consultant Company or its Specified Personnel from being engaged, concerned or having any financial interest in any Capacity in any other business, trade, profession or occupation during the Engagement provided that:

- (a) such activity does not cause a breach of any of the Consultant Company's obligations under this agreement;
- (b) if the Consultant Company or its Specified Personnel is or intends to be involved in any other business, trade, profession or other activity which is similar to or in any way competitive with the Business of Development Pathways, the Consultant Company must notify Development Pathways immediately and provide Development Pathways with written details of such activity; and
- (c) the Consultant Company must give priority to the provision of the Services to Development Pathways over any other business activities undertaken by the Consultant Company during the course of the Engagement.

6.2 The written details to be provided by the Consultant Company to Development Pathways pursuant to clause 6.1(b) must be sufficient to enable Development Pathways to understand who the Consultant Company or its Specified Personnel will be involved with, the planned duration of the relevant activity and the nature of the relevant activity.

7. Confidential information

7.1 The Consultant Company acknowledges that in the course of the Engagement it and its Specified Personnel will have access to Confidential Information for the purpose of providing the Services and has therefore agreed to accept the restrictions in this clause 7.

7.2 The Consultant Company must not, and shall ensure that its Specified Personnel shall not, (except in the proper course of their duties), either during the Engagement or at any time after the Termination Date, use or disclose to any third party (and must use their best endeavours to prevent the publication or disclosure of) any Confidential Information. This restriction does not apply to:

- (a) any use or disclosure authorised by Development Pathways or required by law; or
- (b) any information which is already in, or comes into, the public domain otherwise than through the Consultant Company's or its Specified Personnel's unauthorised disclosure.

7.3 At any stage during the Engagement, the Consultant Company will promptly on request return all and any Development Pathways' Property in its or its Specified Personnel's possession to Development Pathways.

7.4 The Consultant Company and its Specified Personnel must not make any press announcements or publicise this agreement in any way or use Development Pathways' or a Client's name or brand in any promotion, marketing, communication or announcement without the prior written consent of Development Pathways.

8. Data protection

8.1 The Consultant Company and its Specified Personnel must comply with Development Pathways' Data Protection policy, and the Applicable Data Protection Laws and associated codes of practice when processing any personal data in connection with this agreement.

8.2 Development Pathways may screen the Consultant Company's data, and the Specified Personnel's personal data, periodically through Development Pathways external supplier to perform due diligence checks of the Consultant Company and its Specified Personnel.

9. Intellectual property

9.1 The Consultant Company represents and warrants to Development Pathways that it has obtained from its Specified Personnel a written and valid assignment of all existing and future Intellectual Property Rights in the Deliverables and the Inventions and of all materials embodying such rights and a written irrevocable waiver of all its Specified Personnel's statutory moral rights in the Deliverables. If requested by Development Pathways, the Consultant Company agrees to provide to Development Pathways a copy of this assignment, signed and dated by the Consultant Company and its Specified Personnel, immediately upon entering into this agreement

(a) The Consultant Company agrees that all Intellectual Property Rights (excluding the Consultant Company's Background Intellectual Property) created under this agreement, or a subcontract in respect of the Services, will ultimately be vested in Development Pathways' Client (or nominee) immediately upon its creation. To ensure that Development Pathways can assign the title to Intellectual Property Rights to its Client, the Consultant Company agrees that: The Consultant Company hereby grants Development Pathways, and its Client (or nominee), a non-exclusive, irrevocable, royalty-free, transferrable and perpetual licence (with the right to issue sub-licences) to use Background Intellectual Property for any purpose, as far as it relates to the delivery of the Services.

(b) The Consultant Company hereby assigns to Development Pathways all existing and future Intellectual Property Rights in the Deliverables and the Inventions and all materials embodying these rights to the fullest extent permitted by law. Insofar as they do not vest automatically by operation of law or under this agreement, the Consultant Company holds legal title in these rights and Inventions on trust for Development Pathways.

- (c) The Consultant Company assigns to Development Pathway, by the agreement, all such right, title and interest in such Intellectual Property Rights (described in 9.1(a) and 9.1(b)). This assignment takes effect immediately upon its creation. The Consultant Company will do and sign all things necessary to give effect to this assignment.
- 9.2 The Consultant Company undertakes:
 - (a) to notify to Development Pathways in writing full details of any Inventions promptly on their creation;
 - (b) to keep details of all Inventions confidential;
 - (c) whenever requested to do so by Development Pathways and in any event on the termination of the Engagement, promptly to deliver to Development Pathways all correspondence, documents, papers and records on all media (and all copies or abstracts of them), recording or relating to any part of the Deliverables and the process of their creation which are in their possession, custody or power;
 - (d) not to register nor attempt to register any of the Intellectual Property Rights in the Deliverables, nor any of the Inventions, unless requested to do so by Development Pathways; and
 - (e) to do all acts necessary to confirm that absolute title in all Intellectual Property Rights in the Deliverables and the Inventions has passed, or will pass, to Development Pathways.
- 9.3 The Consultant Company warrants to Development Pathways that:
 - (a) It has not given and will not give permission to any third party to use any of the Deliverables or the Inventions, nor any of the Intellectual Property Rights in the Deliverables;
 - (b) It is unaware of any use by any third party of any of the Deliverables or Intellectual Property Rights in the Deliverables; and
 - (c) the use of the Deliverables or the Intellectual Property Rights in the Deliverables by Development Pathways will not infringe the rights of any third party,and confirms that the Specified Personnel has given written undertakings in the same terms to the Consultant Company.
- 9.4 The Consultant Company agrees to indemnify Development Pathways and keep it indemnified at all times against all or any costs, claims, damages or expenses incurred by Development Pathways, or for which Development Pathways may become liable, with respect to any intellectual property infringement claim or other claim relating to the Deliverables or Inventions supplied by the Consultant Company to Development Pathways during the course of providing the Services. Development Pathways may at its option satisfy this indemnity (in whole or in part) by way of deduction from any payments due to the Consultant Company.
- 9.5 The Consultant Company acknowledges that, except as provided by law, no further fees or compensation other than those provided for in this agreement are due or may become due to the Consultant Company in respect of the performance of their obligations under this clause 9.

- 9.6 The Consultant Company undertakes, at the expense of Development Pathways, at any time either during or after the Engagement, to execute all documents, make all applications, give all assistance and do all acts and things as may, in the opinion of the Board, be necessary or desirable to vest the Intellectual Property Rights in, and to register them in, the name of Development Pathways and to defend Development Pathways against claims that works embodying Intellectual Property Rights or Inventions infringe third party rights, and otherwise to protect and maintain the Intellectual Property Rights in the Deliverables and the Inventions. The Consultant Company confirms that its Specified Personnel has given written undertakings in the same terms to the Consultant Company.

10. Liability

- 10.1 The Consultant Company shall have liability for any loss, liability, costs (including reasonable legal costs), damages or expenses arising from any breach by the Consultant Company, or its Specified Personnel, or a Substitute engaged by the Consultant Company of the terms of this agreement including any negligent or reckless act, omission or default in the provision of the Services.
- 10.2 Without prejudice to any other right or remedy available to Development Pathways, the Consultant Company must, if required by Development Pathways, promptly remedy any deficiencies in the supply of the Services including in the Deliverables at the Consultant Company's own cost.
- 10.3 The Consultant Company must maintain in force during the Engagement full and comprehensive Insurance Policies with reputable insurers acceptable to Development Pathways with levels of cover and other terms of insurance acceptable to and agreed by Development Pathways.
- 10.4 The Consultant Company must on request supply to Development Pathways copies of such Insurance Policies and evidence that the relevant premiums have been paid.
- 10.5 The Consultant Company must comply with all terms and conditions of the Insurance Policies at all times. If cover under the Insurance Policies shall lapse or not be renewed or be changed in any material way or if the Consultant Company is aware of any reason why the cover under the Insurance Policies may lapse or not be renewed or be changed in any material way, the Consultant Company shall notify Development Pathways without delay.
- 10.6 For the purposes of this clause 10 "**Insurance Policies**" means professional indemnity insurance cover, and public liability insurance cover, and workers compensation insurance, or the equivalent as required in any jurisdiction that the Services are provided (or in any event, adequate personal accident and illness insurance) and/or to which Development Pathways and/or the Consultant Company and its Specified Personnel are subject, and all insurances as required by law. If the Consultant Company is providing the Services outside of their country of permanent residence, and the travel has not been booked by Development Pathways, adequate medical and dental insurance, including insurance for medical evacuation.

11. Termination or suspension

11.1 Notwithstanding the provisions of clause 2.2 (Term of Engagement), Development Pathways may, at its option, either suspend or terminate (or suspend and then terminate) the Engagement with immediate effect with no liability to make any further payment to the Consultant Company other than in respect of amounts accrued before the Suspension Date (in the case of the agreement being suspended or suspended and then terminated) or the Termination Date (in the case of the agreement being terminated without having been suspended) if at any time:

- (a) the Consultant Company or its Specified Personnel commits any gross misconduct affecting the Business of Development Pathways;
- (b) the Consultant Company or its Specified Personnel commits any serious or repeated breach or non-observance of any of the provisions of this agreement or refuses or neglects to comply with any reasonable and lawful directions of Development Pathways;
- (c) the Consultant Company or its Specified Personnel is convicted of any criminal offence (other than an offence under any road traffic legislation in the United Kingdom or elsewhere for which a fine or non-custodial penalty is imposed);
- (d) the Consultant Company or its Specified Personnel is in the reasonable opinion of the Board negligent or incompetent in the performance of the Services;
- (e) the Consultant Company is declared bankrupt or makes any arrangement with or for the benefit of their creditors or has a county court administration order made against them under the County Court Act 1984;
- (f) the Consultant Company makes a resolution for its winding up, makes an arrangement or composition with its creditors or makes an application to a court of competent jurisdiction for protection from its creditors or an administration or winding-up order is made or an administrator or receiver is appointed in relation to the Consultant Company;
- (g) the Specified Personnel dies or is incapacitated (including by reason of illness or accident) from providing the Services for an aggregate period of 30 days in any 25-week consecutive period;
- (h) the Specified Personnel does not own all of the issued share capital (from time to time) of the Consultant Company;
- (i) the Consultant Company or its Specified Personnel commits any fraud or dishonesty or acts in any manner which in the opinion of Development Pathways brings or is likely to bring the Consultant Company or Development Pathways or the Client into disrepute or is materially adverse to the interests of Development Pathways or the Client;
- (j) the Consultant Company or its Specified Personnel commits any breach of Development Pathways' policies and procedures;
- (k) the Consultant Company or its Specified Personnel commits any offence under the Bribery Act 2010; or

- (l) the Consultant Company or its Specified Personnel commits a UK tax evasion facilitation offence under section 45(1) of the Criminal Finances Act 2017 or a foreign tax evasion facilitation offence under section 46(1) of the Criminal Finances Act 2017.
- 11.2 Notwithstanding the provisions of clause 2.2 (Term of Engagement), Development Pathways may suspend or terminate (or suspend and then terminate) the Engagement with immediate effect with no liability to make any further payment to the Consultant Company other than in respect of amounts accrued before the Suspension Date (in the case of the agreement being suspended or suspended and then terminated) or the Termination Date (in the case of the agreement being terminated without having been suspended) if at any time:
 - (a) Development Pathways receives written notice from a Client stating that the Client considers the Consultant Company and/or its Specified Personnel to be unsuitable to work on any project;
 - (b) Development Pathways' contract with a Client for a project that Development Pathways intended the Consultant Company to work on or which the Consultant Company was working on terminates for any reason; or
 - (c) Development Pathways determines, in its reasonable opinion, that:
 - (i) the security or health of the Consultant Company (or its Specified Personnel) may be unduly compromised if the Engagement were to continue; or
 - (ii) due to the security conditions or due to a Force Majeure Event in the location where the Services are to be performed, the successful delivery of the project that the Consultant Company is working on, or which Development Pathways intends the Consultant Company to work on is at risk of being compromised.
- 11.3 Notwithstanding the provisions of clause 2.2 (Term of Engagement), Development Pathways reserves the right to, at its sole discretion, reduce the Scope of the Services, suspend or terminate this agreement for convenience. Development Pathways will provide written notice to the Consultant Company specifying the effective date of such action. This termination may occur without any breach of this agreement by the Consultant Company or its Specified Personnel. In the event of termination by Development Pathways as provided herein, the Consultant Company shall be paid for the time provided and expenses incurred up to the Termination Date.
- 11.4 If Development Pathways reduces the Scope of the Services, suspends or terminates this agreement under Clause 11.3, Development Pathways will only be liable to the Consultant Company for the following loss or damage incurred as a direct consequence of the reduction of the Scope of Services, suspension or termination of this agreement to the extent that they can be reasonably substantiated and are unable to be avoided or mitigated:
 - (a) Service Fees and any Reimbursable Expenses, as payable under Item 1.7 of Schedule 1 (Service Fees), and Item 1.8 of Schedule 1 (Reimbursable Expenses) earned before the effective Termination Date (on a pro-rata basis, if applicable); and
 - (b) Payments made to subcontractors of the Consultant Company which were payable prior to the date of notice of termination of this agreement by Development Pathways.

but excluding all other loss or damage, including the cost of terminating any subcontractors, loss of profits and all other forms of expectation loss.

11.5 If a Trigger Event occurs which has or is likely to have an adverse impact on Development Pathways, Development Pathways may:

- (a) notify the Consultant Company that it requires the Consultant Company to negotiate in good faith an amendment to this agreement to alleviate the Trigger Event; and
- (b) if no such amendment is made to this agreement within 7 calendar days, terminate this agreement immediately on notice to the Consultant Company.

11.6 For the purposes of clause 11.5 a Trigger Event means any of the following events occurring at any time:

- (a) a change in any legal provision that a party must comply with or a new requirement to comply with any existing legal provision or any existing legal provision ceasing to apply to a party;
- (b) in any jurisdiction, the imposition of, or a change to, a duty, tax or levy imposed on imports or exports;
- (c) in any jurisdiction, the loss of, a change to or the imposition of a new requirement for any licence or consent required by Development Pathways to perform this agreement;
- (d) a change of more than 10% to the rate of sterling against any currency in which Development Pathways is working in connection with this agreement (for example the currency in which the Consultant Company's fees or expenses are payable if other than sterling) or in connection with any project on which the Consultant Company is engaged (for example the currency in which Development Pathways receives payment or pays suppliers if other than sterling). The rate of exchange for these purposes shall be the daily spot exchange rate published by the Bank of England; or
- (e) a change to the business or economic environment in which Development Pathways operates which is not caused by any of the events referred to in clauses 11.6(a) to clause 11.6(d) above.

11.7 The rights of Development Pathways under clause 11.1, clause 11.2, clause 11.3, clause 11.4 and clause 11.5 are without prejudice to any other rights that it might have at law to terminate the Engagement or to accept any breach of this agreement on the part of the Consultant Company as having brought the agreement to an end. Any delay by Development Pathways in exercising its rights to terminate shall not constitute a waiver of these rights.

11.8 For the avoidance of doubt, any decision by Development Pathways to suspend this agreement shall not prejudice or affect its right to terminate this agreement at any time.

12. Obligations on termination

12.1 On the Termination Date the Consultant Company and its Specified Personnel must:

- (a) immediately deliver to Development Pathways all Development Pathways Property and original Confidential Information in their possession or under their control;
 - (b) subject to Development Pathways' data retention guidelines, irretrievably delete any information relating to the Business of Development Pathways stored on any magnetic or optical disk or memory (including but not limited to any Confidential Information) and all matter derived from such sources which is in their possession or under their control outside the premises of Development Pathways. This obligation includes requiring any Substitute to delete such information where applicable; and
 - (c) on Development Pathways' request provide a signed statement that they have complied fully with their obligations under this clause 12, together with such evidence of compliance as Development Pathways may reasonably request.
- 12.2 Any provision of this agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this agreement including clause 7 (Confidential Information), clause 8 (Data Protection) and clause 9 (Intellectual Property) shall remain in full force and effect.
- 12.3 Termination or expiry of this agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination or expiry.

13. Status

- 13.1 The relationship of the Consultant Company (and its Specified Personnel) to Development Pathways will be that of independent contractor and nothing in this agreement shall render it (nor its Specified Personnel) an employee, worker, agent or partner of Development Pathways and the Consultant Company and its Specified Personnel must not hold themselves out as such.
- 13.2 This agreement constitutes a contract for the provision of services and not a contract of employment and accordingly the Consultant Company is fully responsible for and must indemnify Development Pathways for and in respect of:
- (a) subject to clause 13.3, any income tax, National Insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from a determination that the Engagement is Deemed Employment or made in connection with either the performance of the Services or any payment or benefit received by the Individual in respect of the Services, where such recovery is not prohibited by law. The Consultant Company must indemnify Development Pathways against all reasonable costs, expenses and any penalty, fine or interest incurred or payable by Development Pathways in connection with or in consequence of any such liability, deduction, contribution, assessment or claim; and
 - (b) any liability arising from any employment-related claim or any claim based on worker status (including reasonable costs and expenses) brought by the Consultant Company or its Specified Personnel or any Substitute against Development Pathways arising out of

or in connection with the provision of the Services, except where such claim is as a result of any act or omission of Development Pathways.

- 13.3 The indemnity in clause 13.2(a) does not apply to any income tax or National Insurance contributions deducted by Development Pathways if the Engagement is Deemed Employment and Development Pathways makes the deductions from the fees due under this agreement prior to payment to the Consultant Company.
- 13.4 Development Pathways may at its option satisfy the indemnity in clause 13.2 (in whole or in part) by way of deduction from any payments due to the Consultant Company.
- 13.5 The Consultant Company represents and warrants that it is not nor will it prior to the cessation of this agreement, become a managed service company, within the meaning of section 61B of the Income Tax (Earnings and Pensions) Act 2003.
- 13.6 For the avoidance of doubt, it is the Consultant Company's and its Specified Personnel's responsibility to ensure that they and any Substitute registers for and pays such taxes, contributions and liabilities that are due in the jurisdiction in which they are resident and in the jurisdictions in which they travel to for the work that they provide in connection with this agreement.
- 13.7 The Consultant Company must notify Development Pathways immediately if the Consultant Company or its Specified Personnel is in breach of any of the provisions of this clause 13 and/or if the Consultant Company or the Individual or any Substitute has received notice from any tax authority that claims that the Consultant Company or its Specified Personnel or any Substitute has failed or may have failed to comply in any way with any tax law in any jurisdiction.

14. Notices

- 14.1 Any notice given to a party under or in connection with this agreement must be in writing and must be:
 - (a) delivered by courier at its principal place of business (in the case of Development Pathways) or (in the case of the Consultant Company) its registered address; or
 - (b) sent by email to in the case of Development Pathways the representatives set out in item 1.2 of Schedule 1 and the Consultant Company the representative set out in item 1.1 of Schedule 1.
- 14.2 Any notice will be deemed to have been received:
 - (a) if delivered by courier, on signature of a delivery receipt or at the time the notice is left at the proper address; or
 - (b) if sent by email at the time of transmission.
- 14.3 To prove service by email the sender of the email must receive written confirmation manually generated from the recipient that the recipient has received the relevant email which confirmation

shall not, for example, include any response that is automatically generated as a result of the recipient receiving the email, such as an “out-of-office” response.

- 14.4 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

15. Entire agreement

- 15.1 This agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

- 15.2 Each party acknowledges that in entering into this agreement it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement save that Development Pathways has, in entering into this agreement, relied on the information that the Consultant Company has provided to Development Pathways prior to the date of this agreement in respect of the experience and qualifications of the Consultant Company and the Individual.

- 15.3 Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in this agreement.

- 15.4 Nothing in this clause shall limit or exclude any liability for fraud.

16. Assignment and other dealings

- 16.1 Development Pathways may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under this agreement.

- 16.2 The Consultant Company must not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any of their rights and obligations under this agreement.

- 16.3 The Consultant Company acknowledges that Development Pathways is obliged to include a right to novate this agreement to its Client, or a nominee of its Client (upon request of its Client).

- 16.4 The Consultant Company agrees that Development Pathways and/or its Client has the right to novate this agreement.

17. Variation

- 17.1 No variation of this agreement will be effective unless it is in writing and signed by the parties (or their authorised representatives).

18. Counterparts

- 18.1 This agreement may be executed in any number of counterparts, each of which shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

19. Third party rights

- 19.1 Except as expressly provided elsewhere in this agreement, no one other than a party and its permitted assignees shall have any right to enforce any of the provisions of this agreement.

20. Governing law

- 20.1 This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

21. Jurisdiction

- 21.1 Each party irrevocably agrees that the courts of England and Wales shall have non-exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

This agreement takes effect on the date stated at the beginning of it.

Please acknowledge receipt of this agreement, including any schedules to this agreement, and acceptance of its terms by signing, dating and returning the enclosed copy.

Yours sincerely,

.....
[Delegate Name, Position]
For and on behalf of
Development Pathways Limited

Date.....

I hereby acknowledge receipt and accept the contents of this agreement.

Signed.....

Name.....

Position.....

For and on behalf of

[CONSULTANT COMPANY]

Date.....

Schedule 1 Services

1.1 Consultant Company Information

Agreement Number	
Consultant Company Entity Name	
Business Number	
Location of Business Registration	
Address	
Email	
Consultant Company Representative	

1.2 Development Pathways Representative

The Consultant Company will report to the Development Pathway's Representative for all agreement related matters.

Name	
Position	
Email	

1.3 Reporting to Project Representative

The Consultant Company and its Specified Personnel will report to the Partnerships for Social Protection Representative for matters relating to the delivery of the Terms of Reference, as outlined in Schedule 2.

Position	
-----------------	--

1.4 Specified Personnel

Name	
Position	
Email	
Home Location (city, country)	

1.5 Agreement Term

Commencement Date	
End Date	

1.6 Scope of Services

Project	Partnerships for Social Protection (P4SP)
Scope of Services	The Consultant Company and its Specified Personnel is engaged to provide consultancy Services on the <i>Partnerships for Social Protection</i> program managed by Development Pathways. The Consultant Company and its Specified Personnel shall provide Services in accordance with the Terms of Reference included in Schedule 2 to this Agreement.
Client/s	Commonwealth of Australia represented by the Department of Foreign Affairs and Trade (pursuant to <i>Head Contact 77127</i> - between DFAT and Development Pathways Ltd dated 17 September 2021). A reference to DFAT in Schedules 1-3 is a reference to the Client.

1.7 Background Intellectual Property

[Contractor to identify any background IP prior to issuing the contract. If none is disclosed, then state 'No background intellectual property has been disclosed'.]

IP	Description

1.8 Service Fees

Development Pathways will pay the Consultant Company the following Service Fees:

Service Description	Rate (AUD) Excluding Consumption Tax	Total Payable (AUD) Excluding Consumption Tax
Milestone / Deliverable X - in accordance with Schedule 1 Services, Item 1.6 Scope of Services.	AUD XX	Up to AUD XX for a maximum of XX days for the duration of this agreement.
Daily rate for Consultant Company Services in accordance with Schedule 1 Services, Item 1.6 Scope of Services.	AUD XX	Up to AUD XX for a maximum of XX days for the duration of this agreement.
TOTAL SERVICE FEES PAYABLE		Up to AUD XX for a maximum of XX days for the duration of this agreement.

Item 1.8 Notes:

- 1) Service Fees are exclusive of Management Fees. The Consultant Company cannot charge a Management Fee to Development Pathways for the provision of Services under this agreement.
- 2) Service Fees are inclusive of all legal entitlements in accordance with labour laws, as relevant to the Consultant Company's location. The Consultant Company warrants that they will comply with relevant government requirements, including legal and taxation regulations, and making superannuation guarantee or equivalent contributions, as relevant to the applicable laws in their location to their Specified Personnel. The Consultant Company indemnifies Development Pathways in respect of any claims made against Development Pathways by third parties in respect of the warranty in this clause, including any costs incurred by Development Pathways in respect of such claims, on an indemnity basis.
- 3) Payment of Service Fees shall be made upon submission of a correctly rendered invoice, including a timesheet that details all inputs and outputs as supporting documentation. All invoices are subject to Development Pathways approval, in accordance with the satisfactory completion of identified deliverables, as outlined in Schedule 2 Terms of Reference.
- 4) The Consultant Company will invoice Development Pathways on a monthly basis and in accordance with tasking notes / agreed deliverables / agreed workplans.
- 5) Service Fees are based on a working day of at least eight (8) hours. The Consultant Company will not be entitled to claim additional costs for more than eight (8) hours per working day,

per Specified Personnel. The Consultant Company will be paid for the lesser of actual days' work undertaken, or the maximum values specified in the Service Fees table. The Consultant Company is required to ensure Specified Personnel maintains a timesheet to enable verification of actual time spent undertaking the Services.

1.9 Reimbursable Expenses

Expense Item	Description / Amount (AUD)	Total Expense (AUD)
Other expenses	All other reasonable expenses with prior written approval by Development Pathways.	Reimbursed at cost; Invoice and receipts to be provided.

Item 1.9 Notes:

- 1) Expenses must not be incurred without the prior approval of Development Pathways.
- 2) Any changes to the reimbursable expenses listed above will be approved and communicated in writing by Development Pathways prior to the expenditure.

1.10 Adherence to Development Pathways and Project Policies

- During the Term of the assignment, the Consultant Company and its Specified Personnel will be required to adhere to all Development Pathways and P4SP policies including, but not limited to the:
 - a) Development Pathways Anti-Bribery and Corruption and Procedure;
 - b) Development Pathways Anti-Fraud Policy;
 - c) Development Pathways Anti-Harassment and Bullying Policy;
 - d) Development Pathways Code of Ethical Conduct;
 - e) Development Pathways Conflict of Interest and Mitigation Procedure;
 - f) Development Pathways Data Protection Policy;
 - g) Development Pathways Environmental Policy;
 - h) Development Pathways Equality Diversity and Inclusion Policy;
 - i) Development Pathways IT and Cyber Security Policy;
 - j) Development Pathways Modern Slavery and Human Trafficking Statement;
 - k) Development Pathways Privacy Policy;
 - l) Development Pathways Safeguarding Policy for Children and Adults at Risk;
 - m) Development Pathways Supplier Management Policy;
 - n) Development Pathways Whistleblowing Policy and Procedure;
 - o) Commonwealth Protective Security Policy Framework;
 - p) Project Travel Policy and Procedure; and
 - q) all other policies, procedures and guidance as notified to the Consultant Company from time to time.

Child protection

- Development Pathways is committed to protecting the rights of children and ensuring a child-safe environment in all aspects of our work. We may require the Consultant Company to provide a police check(s) for Specified Personnel and reserve the right to conduct other screening procedures, if required, to ensure a child-safe environment.

- The Consultant Company acknowledges and agrees that Development Pathways may terminate this agreement immediately and without providing notice if the Consultant Company fails to provide evidence of a satisfactory police check of Specified Personnel if requested.
- The Consultant Company must advise Development Pathways immediately in writing if it or its Specified Personnel is accused of, charged with, arrested for, or convicted of, criminal offences relating to child abuse or exploitation.

Gender equality, disability and social inclusion

- Development Pathways is committed to technical excellence in gender equality and our team will work closely with our partners to ensure a context-specific and consistent approach is applied to all our programs to improve the livelihoods of the world's most marginalised groups.

Preventing sexual exploitation, abuse and harassment

- Development Pathways is committed to respectful workplaces and does not tolerate sexual exploitation, abuse or harassment of any kind.

1.11 Special Conditions

- 1.11.1 The Consultant Company and its Specified Personnel is required to adhere to the *Flow Down Terms* as detailed in Schedule 3.
- 1.11.2 Should travel away from the Specified Personnel's Home Location form part of the Services, Development Pathways will advise of the medical approval requirements prior to the travel. It is the responsibility of the Specified Personnel to follow this instruction and obtain the medical approval and provide this to Development Pathways in a timely manner. This Consultancy Agreement offer is conditional on the Consultant Company's Specified Personnel being certified as fit and healthy by a legally qualified medical practitioner to travel and work in the assigned country, as outlined in Schedule 1 Item 1.6 Scope of Services.



Schedule 2 Terms of Reference

Schedule 3 Flow Down Terms

1. DEFINITIONS

Unless otherwise defined below, the definitions and interpretation clauses set out in the Consultancy Agreement apply to these Special Conditions.

The following terms apply in these Special Conditions, unless qualified by or inconsistent with the context:

Applicable Standards means:

- DFAT's Monitoring and Evaluation Standards, <https://www.dfat.gov.au/about-us/publications/Pages/dfat-monitoring-and-evaluation-standards>
- ISO 15489 (Records management)

Commonwealth means the Commonwealth of Australia.

Confidential Information means:

- (a) any information that is identified as confidential by Development Pathways and/or DFAT; and
- (b) any other information:
 - (i) that is commercially sensitive (not generally known or ascertainable); and
 - (ii) the disclosure of which would cause unreasonable detriment to the owner of the information or another party; and
 - (iii) that was provided with an express or implied understanding that it would remain confidential,

but does not include these Special Conditions (unless and to the extent it is identified as confidential) or information that:

- (c) is or becomes public knowledge other than by breach of these Special Conditions and the Consultancy Agreement;
- (d) is in the possession of a party without restriction in relation to disclosure before the date of receipt; or
- (e) has been independently developed or acquired by the receiving party.

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

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

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

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

Partner Country means the country or countries in which the Services are to be performed.

Personal Information has the same meaning as in the *Privacy Act 1988(Cth)*.

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

Specified Personnel means the Consultant Company's personnel engaged to deliver the Services, as detailed in Item 1.4 of Schedule 1.

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

2. STANDARDS

2.1 Representations and warranties of the Consultant Company

- (a) The Consultant Company represents and warrants that:
 - (i) **(law, standards)** in providing the Services it will comply with the law, the Applicable Standards, and with relevant industry standards;
 - (ii) **(directions)** in providing the Services it will comply with Development Pathways' reasonable directions;
 - (iii) **(materials)** it will only use materials that are new, fit for the purpose and required by Development Pathways;
 - (iv) **(Services)** Services will be provided with due care and skill and must be fit for the purpose; and
 - (v) **(work)** the work performed to provide the Services will be performed to a high standard and in accordance with best practice.
- (b) The Consultant Company must promptly notify Development Pathways if the Consultant Company is unable to provide all or part of the Services in accordance with the requirements of these Special Conditions.

3. CONTRACT MANAGEMENT

3.1 Performance Review

- (a) At any time Development Pathways may conduct a review or appoint an independent person to conduct a review on any matter capable of affecting the performance of the Services.
- (b) During the course of a review initiated under clause 3.1(a), the Consultant Company must:
 - (i) participate cooperatively in the review; and
 - (ii) continue to perform their obligations pursuant to the Consultancy Agreement and these Special Conditions.
- (c) Each party must bear its own costs of any such reviews conducted by or on behalf Development Pathways.

3.2 Performance Assessment

- (a) The Consultant Company agrees that Development Pathways may issue performance assessments in relation to the Services and within 15 days after receiving a performance assessment pursuant to this clause the Consultant Company must sign and return to Development Pathways the performance assessment together with any response.

3.3 Publication

- (a) The Consultant Company agrees to authorise the Commonwealth to publish its details including the Consultant Company and its Specified Personnel's name and the nature of the Services it is engaged to perform.

3.4 Notification to Development Pathways

- (a) The Consultant Company must immediately notify Development Pathways if the Consultant Company or its Specified Personnel is:
 - (i) Subject to a change in Control of its legal entity
 - (ii) on the DFAT Consolidated List, the Criminal Code Act List, the World Bank List or a Relevant List;
 - (iii) subject to any proceedings or informal process that could lead to listing on the DFAT Consolidated List, the Criminal Code Act List, the World Bank List or a Relevant List;
 - (iv) temporarily suspended from tendering for World Bank contracts by the World Bank, pending the outcome of a sanctions process;
 - (v) temporarily suspended from tendering by a donor of development funding other than the World Bank; and/or
 - (vi) the subject of an investigation (whether formal or informal) by the World Bank or another donor of development funding.

4. POLICY AND LAW

4.1 Compliance with laws and policies

- (a) The Consultant Company is responsible for ensuring that they comply with:
 - (i) applicable laws of the Commonwealth, any state, territory or local authority and applicable Commonwealth policies as set out in these Special Conditions or as notified to the Consultant Company from time to time; and
 - (ii) the applicable laws of any jurisdiction in which any part the Services is performed.
- (b) In performing any part of the Services outside Australia, the Consultant Company must:
 - (i) not engage in any political activity in the relevant country during the provision of the Services;
 - (ii) observe all laws and respect all religions and customs of that country; and
 - (iii) conduct themselves in a manner consistent with the *Public Service Act 1999* (Cth) (including the Australian Public Service Values and Employment Principles and Code of Conduct).

4.2 Compliance with DFAT policies

The Consultant Company must ensure that they, and their Specified Personnel, **comply** with DFAT policies and guidance as identified on DFAT website:

<https://www.dfat.gov.au/aid/australias-development-program>, including the following:

- (a) Australia's International Disability Equity and Rights Strategy;
- (b) Australia's International Gender Equality Strategy;
- (c) Child Protection Policy (www.dfat.gov.au/childprotection);
- (d) Displacement and Resettlement of People in Development Activities Policy;
- (e) Environmental and Social Safeguard Policy;
- (f) Environment Protection Policy;
- (g) Ethics, Integrity and Professional Standards Policy Manual;
- (h) Family Planning and the Aid Program: Guiding Principles; and
- (i) Preventing Sexual Exploitation, Abuse and Harassment Policy (<http://www.dfat.gov.au/pseah>).

4.3 Child Protection

- (a) At any time, Development Pathways may conduct a review or appoint a third party (which may be DFAT) to conduct a review of the Consultant Company's compliance with DFAT's Child Protection Policy. Development Pathways will give reasonable notice to the Consultant Company that a review of their compliance with DFAT's Child Protection Policy will be conducted. Any review will be at the cost of the Consultant Company, and the Consultant Company must co-operate and promptly provide Development Pathways or a third party undertaking the review with any requested information, which development Pathways may disclose to DFAT.
- (b) If Development Pathways or the third party appointed under clause 4.3(a) finds that the Consultant Company has failed to comply with DFAT's Child Protection Policy, the Consultant Company must promptly, and at the cost of the Consultant Company, take such actions as are required to ensure compliance with the DFAT's Child Protection Policy.
- (c) This clause is a material term of these Special Conditions and if the Consultant Company, or its Specified Personnel, breaches this clause 4.3, Development Pathways may terminate the Consultancy Agreement immediately by issuing a notice under clause 11 (Termination) of the Consultancy Agreement.

4.4 Preventing Sexual Exploitation Abuse and Harassment (PSEAH)

- (a) Development Pathways may at any time conduct a review or appoint a third party (which may be DFAT) to conduct a review of the Consultant Company's compliance with DFAT's Preventing Sexual Exploitation, Abuse and Harassment Policy. Development Pathways will give reasonable notice to the Consultant Company that it will conduct a review of their compliance with this policy. Any review will be at the cost of the Consultant Company, and the Consultant Company must co-operate and promptly provide Development Pathways or a third party undertaking the review with any requested information, which development Pathways may disclose to affected parties (such as DFAT).
- (b) If Development Pathways or the third party appointed under clause 4.4(a) finds the Consultant Company has failed to comply with DFAT's Preventing Sexual Exploitation, Abuse and Harassment Policy, the Consultant Company must promptly, and at the cost of the Consultant Company take such actions as are required to ensure compliance with the DFAT's Preventing Sexual Exploitation, Abuse and Harassment Policy.
- (c) This clause is a material term of these Special Conditions and if the Consultant Company or its Specified Personnel breaches this clause 4.4, Development Pathways may terminate the Consultancy Agreement immediately by issuing a notice under clause 11 (Termination) of the Consultancy Agreement.

4.5 Counter-terrorism and sanctions

The Consultant Company must ensure that funds provided under this do not provide direct or indirect support or resources to:

- (a) organisations or individuals associated with terrorism;
- (b) organisations or individuals subject to sanctions under the:

- (i) *Charter of the United Nations Act 1945* (Cth) and any regulations made under that Act; or
- (ii) *Autonomous Sanctions Act 2011* (Cth) and any regulations made under that Act; or
- (c) organisations or individuals on the World Bank List or on a Relevant List.

4.6 **Fraud**

- (a) The Consultant Company and its Specified Personnel must not, engage in any Fraud and the Consultant Company must take steps to prevent and detect Fraud.
- (b) The Consultant Company must immediately notify Development Pathways if the Consultant Company becomes aware of any actual or suspected Fraud.
- (c) If the Consultant Company becomes aware of any actual or suspected Fraud, the Consultant Company must comply with any direction given by Development Pathways.
- (d) The Consultant Company agrees that Development Pathways may appoint a third party investigator (which may be DFAT) or conduct an investigation and/or report suspected Fraud to the appropriate law enforcement agencies or any other person or entity (including DFAT) that Development Pathways or the third party investigator deems appropriate in Australia or in the Partner Country for investigation. If Development Pathways exercises its rights under this clause 4.6(d), unless otherwise agreed with Development Pathways, the Consultant Company must promptly provide all reasonable assistance that may be required at its own expense to Development Pathways and any third-party investigator.
- (e) If an investigation finds the Consultant Company or its Specified Personnel has in all likelihood engaged in Fraud or if Development Pathways discovers that a Fraud has not been reported in accordance with this clause 4.6:
 - (i) the Consultant Company, in consultation with Development Pathways and any third party investigator, must:
 - (A) return the full value of any misappropriated funds, including client funds; and
 - (B) either return any misappropriated DP Property to Development Pathways or, if the property cannot be recovered or has been damaged, replace the property with property of equivalent value or quality, or repair the property, at no cost to Development Pathways or DFAT (as a Client of Development Pathways); and
 - (ii) Development Pathways may terminate immediately by issuing a notice under clause 11 of the Consultancy Agreement (Termination).
- (f) The Consultant Company must keep Development Pathways informed, in writing, on a monthly basis, of the progress of its efforts to recover any misappropriated funds or DP Property, including any recovery action.

4.7 False and misleading information

- (a) The Consultant Company acknowledges that the giving of false or misleading information to the Commonwealth is a serious offence under section 137.1 of the schedule to the *Criminal Code Act 1995* (Cth).

4.8 Anti-Corruption

- (a) In this clause, **Corrupt Conduct** has the meaning given in the *National Anti-Corruption Commission Act 2022* (Cth).
- (b) The Consultant Company warrants that, to the best of its knowledge, it has disclosed to Development Pathways all current and previous allegations or investigations in relation to Corrupt Conduct, or any instances of Corrupt Conduct that they have been involved in.
- (c) The Consultant Company must not, and must ensure that they do not engage in Corrupt Conduct.
- (d) If the Consultant Company becomes aware of Corrupt Conduct or any other conduct which could actually or potentially compromise the integrity, accountability or probity of the administration, or performance of this agreement, it must report the matter to Development Pathways and DFAT in writing within five business days. The Consultant Company must investigate the matter at its own cost and, at Development Pathways or DFAT's request, report on the progress and outcomes of the investigation and the actions taken to mitigate the risk of similar matters occurring in the future.
- (e) The Consultant Company must, at its own cost:
 - (i) comply with any reasonable request, policy or direction issued by Development Pathways and/or DFAT; and
 - (ii) cooperate with Development Pathways and/or DFAT,in any action taken by Development Pathways and/or DFAT as required or authorised by the *National Anti-Corruption Commission Act 2022* (Cth).
- (f) Where Corrupt Conduct by the Consultant Company has been found to have occurred, the Consultant Company must, if directed by Development Pathways and/or DFAT:
 - (i) use reasonable efforts to recover any funds lost as a result of the Corrupt Conduct;
 - (ii) refer the matter to the appropriate governmental authorities; and,
 - (iii) reimburse to Development Pathways and/or DFAT (whichever the applicable) any funds misappropriated through corrupt activities that are recovered by the Consultant Company.
- (g) This clause is a material term of these Special Conditions and survives the termination or expiry of the Consultancy Agreement.

- (h) Any breach of this clause 4.8 will entitle Development Pathways to issue a notice under clause 11 of the Consultancy Agreement (Termination) to terminate the Consultancy Agreement immediately.

4.9 Security and Cyber Security

- (a) The Consultant Company is responsible for security and must comply with this clause 4.9.
- (b) If the Consultant Company is required to access or otherwise gains access to official information or security classified information, it agrees to comply and manage its system in accordance with all relevant security requirements specified in the *Commonwealth Protective Security Policy Framework*.
- (c) The Consultant Company must take reasonable and prudent steps consistent with good industry practice to reduce the risk of a Cyber Security Attack on the Consultant Company's information technology systems that accesses, transmits or stores any Confidential Information or any other data connected with this agreement.
- (d) At the request of Development Pathways, the Consultant Company must provide details of the security measures they have in place to reduce the risk of a Cyber Security Attack on its information technology systems.
- (e) The Consultant Company must:
 - (i) notify Development Pathways immediately on becoming aware of any security incident, Cyber Security Incident or security breach and comply with directions of Development Pathways and DFAT to rectify the security issue, which may include notifying the Australian Cyber Security Centre or any other relevant body; and
 - (ii) participate in security reviews of its procedures at least annually as requested Development Pathways and participate in any security audit in relation to the Services, providing full co-operation to Development Pathways, DFAT or its independent auditors, including the Australian National Audit Office.

4.10 Supplier Code of Conduct

- (a) For the purposes of this clause, **Code** means the Australian Government Supplier Code of Conduct, as amended from time to time.
- (b) The Consultant Company must comply with the Code in connection with the performance of the Services.
- (c) The Consultant Company must on request from Development Pathways and/or DFAT, promptly provide information regarding the Consultant Company's compliance with the Code.
- (d) The Consultant Company must immediately notify Development Pathways on becoming aware of any breach of the Code including a summary of the breach and the date that the breach occurred.
- (e) Development Pathways and/or DFAT may notify the Consultant Company in writing that it considers that the Consultant Company has breached clause 4.10(b), in which

case the Consultant Company must provide information supporting demonstrating compliance with their obligations under this clause.

- (f) A failure by the Consultant Company to comply with its obligations under any part of this clause 4.10 will be a material breach of the Consultancy Agreement and will entitle Development Pathways to issue a notice under clause 11 of the Consultancy Agreement (Termination) to terminate the Consultancy Agreement immediately.

4.11 Work Health and Safety

- (a) The Consultant Company must perform its obligations under the Consultancy Agreement in strict compliance with the *Work Health and Safety Act 2011* (Cth) (**WHS Act**) and are able to participate in:
 - (i) any necessary inspections of work in progress;
 - (ii) any necessary consultation with Development Pathways regarding implementation of the WHS Act provisions; and
 - (iii) tests and evaluations of the Services.
- (b) The Consultant Company agrees, that if at any time it carries out any part of the Services at DFAT's premises or using DFAT's facilities it will comply with DFAT's reasonable directions and procedures relating to:
 - (i) work health and safety; and
 - (ii) security,

in effect at those premises or in regard to those facilities, as notified by DFAT or as might be reasonably inferred from the use to which the premises or facilities are being put.
- (c) Without limiting any other provision of the Consultancy Agreement or these Special Conditions, the Consultant Company must, on request, give all reasonable assistance to Development Pathways and/or DFAT, by way of provision of information and documents, to assist Development Pathways and/or DFAT and its officers as defined in the WHS Act to comply with the duties imposed on them under the WHS Act.
- (d) The Consultant Company acknowledges that Development Pathways and/or DFAT (if at DFAT premises) may direct it to take specified measures in connection with the Consultant Company's work under the Consultancy Agreement that either Development Pathways and/or DFAT considers reasonably necessary to deal with an event or circumstance that has or is likely to have, an adverse effect on the health or safety of persons. The Consultant Company must comply with the direction at its own cost.

5. CONFIDENTIALITY

5.1 Use and disclosure of Confidential Information

- (a) The Consultant Company must not and must procure that its Specified Personnel do not:
 - (i) use any Confidential Information except to the extent necessary to exercise its rights and perform its obligations under the Consultancy Agreement; or
 - (ii) disclose any of the Confidential Information except in accordance with clauses 5.2 and 5.3.
- (b) If requested by Development Pathways, the Consultant Company and its Specified Personnel must execute a deed of confidentiality in the form stipulated by Development Pathways prior to disclosing any Confidential Information in accordance with clause 5.2.
- (c) The Consultant Company agrees that Division 122 of the *Criminal Code Act 1995* (Cth) applies to it and its personnel and acknowledges that it is an offence to publish or communicate without authorisation, official information which came to its knowledge or possession by virtue of the Engagement.

5.2 Disclosures advisers

- (a) The Consultant Company may disclose Confidential Information to its legal, financial or other professional adviser if:
 - (i) the disclosure is necessary to enable the Consultant Company to perform its obligations or to exercise its rights under the Consultancy Agreement; and
 - (ii) prior to disclosure, the Consultant Company informs the person of the Consultant Company's obligations in relation to the Confidential Information under the Consultancy Agreement and obtains an undertaking from the person to comply with those obligations.
- (b) The Consultant Company must ensure that any person to whom Confidential Information is disclosed under clause this clause 5.2. keeps the Confidential Information confidential and does not use it for any purpose other than as permitted under this clause 5.2.

5.3 Disclosures required by law

- (a) Subject to clause 5.3 the Consultant Company may disclose Confidential Information that the Consultant Company is required to disclose by law or by order of any court or tribunal of competent jurisdiction.
- (b) The Consultant Company agrees, that its Confidential Information may be disclosed by DFAT when, a Minister or Parliament in accordance with statutory or portfolio duties or functions, or for public accountability reasons, including following a request by Parliament, a parliamentary committee or a Minister.
- (c) If a Consultant Company is required to make a disclosure under clause 5.3(a) the Consultant Company must:

- (i) to the extent possible, notify Development Pathways immediately that they anticipate that they may be required to disclose any of the Confidential Information;
- (ii) consult with and follow any reasonable requests from Development Pathways to minimise disclosure; and
- (iii) if disclosure cannot be avoided:
 - (A) only disclose Confidential Information to the extent necessary to comply; and
 - (B) use reasonable efforts to ensure that any Confidential Information disclosed is kept confidential.

5.4 Return or destruction of documents

- (a) On expiry or termination of the Consultancy Agreement and subject to any laws regarding the maintenance of records, the Consultant Company must immediately:
 - (i) deliver to Development Pathways all documents and other materials containing, recording or referring to Confidential Information; and
 - (ii) erase or destroy in another way all electronic and other intangible records containing, recording or referring to Confidential Information (with the exception of offline copies created by an automatic back-up of the Consultant Company's and its Specified Personnel's computer facilities used in connection with the Services, which are in the possession, power or control of the Consultant Company or of any person to whom the Consultant Company has given access.

6. PRIVACY

6.1 Compliance with Privacy Laws and policies

The Consultant Company and its Specified Personnel must ensure that all of its dealings with Personal Information in connection with the Services:

- (a) conform with its obligations under the Privacy Laws;
- (b) to the extent that different Privacy Laws apply to each party, and without limiting clause 6.1(a), conform with the obligations and the requirements of DFAT's latest published privacy policy (<https://www.dfat.gov.au/about-us/corporate/privacy>);
- (c) conform, to the extent relevant to the Services, with the obligations and requirements of DFAT's published privacy policies (as amended from time to time).

6.2 DFAT access and requests

- (a) The Consultant Company must, on reasonable request by Development Pathways, give access to any Personal Information acquired from Development Pathways and/or DFAT or in connection with the Services.

- (b) Without limiting clause 6.1 or this clause 6.2, the Consultant Company must comply with any reasonable request by Development Pathways or DFAT made for the purpose of ensuring compliance with:
 - (i) obligations arising under the Privacy Laws;
 - (ii) any applicable guideline, recommendation, direction or determination issued by the Office of the Australian Information Commissioner (or such other privacy authority with jurisdiction over either party) or
 - (iii) DFAT's privacy policy.

6.3 General Obligations of the Consultant Company

- (a) The Consultant Company must immediately notify Development Pathways if the Consultant Company becomes aware of a breach or possible breach of its obligations in relation to Personal Information.

7. RECORDKEEPING AND AUDIT

7.1 Records of work

In addition to its obligations set out in clause 14 of the Consultancy Agreement (Notices), the Consultant Company must:

- (a) keep full and accurate records relating to:
 - (i) the prevention, detection and investigation of Fraud; and
 - (ii) Receipts and expenses for Reimbursable Costs; and
 - (iii) Supporting documentation with sufficient detail to enable the amounts payable by Development Pathways to be determined;
- (b) maintain the records:
 - (i) in a manner that enables them to be conveniently and properly audited; and
 - (ii) for a period of at least 7 years from the date on which the records were created; and
- (c) on the request of Development Pathways, give Development Pathways access to those records and consent to Development Pathways providing those records to DFAT.