



Australian Government

Department of Foreign Affairs and Trade

DFAT – Services Contract

Dated **XX** March 2018

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

[insert Contractor's name] (“Contractor”)

FOR

Reception and Security Guarding Services for the Australian Embassy, Amman, Jordan

SIGNED for and on behalf of the

COMMONWEALTH OF AUSTRALIA

represented by the

Department of Foreign Affairs and Trade by:

in the presence of:

Signature of PGPA Delegate/authorised DFAT
representative

Signature of Witness

Name of Delegate/authorised DFAT
representative
(*Print*)

Name of Witness
(*Print*)

Date

Date

SIGNED for and on behalf of
CONTRACTOR'S NAME by:

Name and Position
(*Print*)

Signature

Date

By executing this Contract the signatory warrants that the signatory is duly authorised to execute this Contract on behalf of the Contractor.

in the presence of:

Name of Witness
(*Print*)

Signature of Witness

Date

STRUCTURE OF THE CONTRACT

This Contract has six (6) **Parts** and three (3) **Schedules** as follows:

Parts 1-6 Standard Contract Conditions

1.	DEFINITIONS	9
2.	INTERPRETATION	13
3.	INCONSISTENCY	14
4.	CONTRACT FORMATION	15
5.	SCOPE	15
6.	CONTRACTOR OBLIGATIONS	15
7.	NON-EXCLUSIVITY AND VOLUME	16
8.	PERFORMANCE STANDARDS	16
9.	WARRANTIES	16
10.	CONFLICT OF INTEREST	17
11.	INSURANCES	17
12.	INTELLECTUAL PROPERTY	19
13.	INDEMNITIES	20
14.	PUBLICITY	21
15.	AGENCY	21
16.	AMENDMENT	21
17.	WAIVER	21
18.	SEVERANCE	22
19.	ASSIGNMENT	22
20.	SURVIVAL	22
21.	GOVERNING LAW AND JURISDICTION	22
22.	NOTICES	22
23.	COUNTER-TERRORISM	23
24.	INVESTIGATION BY THE OMBUDSMAN	24
25.	FRAUD	24
26.	ANTI-CORRUPTION	27
27.	COMPLIANCE WITH LAWS AND POLICIES	28
28.	SECURITY	28
29.	WORK HEALTH AND SAFETY	30
30.	CONFIDENTIALITY	30

31.	PRIVACY	31
32.	CONTRACT MANAGEMENT GROUP	32
33.	REVIEW	33
34.	PERFORMANCE ASSESSMENT	33
35.	SPECIFIED PERSONNEL	33
36.	SUBCONTRACTING	34
37.	RECORDKEEPING	35
38.	ACCESS TO PREMISES AND RECORDS	36
39.	AUDIT	37
40.	REPORTS	38
41.	INVOICING	39
42.	PAYMENT	40
43.	PAYMENT NOT AN ADMISSION OF LIABILITY	40
44.	DISPUTED INVOICES	41
45.	REMEDIES	42
46.	DISPUTE RESOLUTION	42
47.	EARLY NOTIFICATION	43
48.	TERMINATION FOR BREACH	43
49.	TERMINATION FOR CONVENIENCE	45
50.	FORCE MAJEURE	46
51.	EXTENSION OF TIME	47
52.	LIABILITY	48

Schedule 1	Statement of Requirements
Schedule 2	Pricing Schedule
Schedule 3	Deed of Confidentiality

CONTRACT DETAILS

Parties: DFAT and the Contractor

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

Address: **Australian Embassy, Amman**

DFAT's (Management) Representative: **Contact information:** {insert}

DFAT Escalation Representative: **Contact information:** {insert} :

Contractor {insert} **ABN:** {insert}

Acting as Trustee: Y/N

Small Business: Y/N **Registered for GST:** Y/N **ABN:** {insert}

Contractor's (Management) Representative: **Name:** {insert} **Telephone:** {insert}

Position: {insert}

Street address: {insert}

Postal address: {insert}

E-mail address: {insert}

Contractor's Escalation Representative: **Name:** {insert} **Telephone:** {insert}

Position: {insert}

Street address: {insert}

Postal address: {insert}

E-mail address: {insert}

Term: **Start Date:** 26 March 2018

Term: The term of this Contract is for an initial period of three years, until 25 March 2021, with the option to extend the contract for two further one year terms, until 25 March 2023.

Services

DFAT has a requirement for Reception and Security Guarding Services for its Australian Embassy, Amman compound, residences and other nominated locations. DFAT is seeking to engage a suitably qualified and experienced local Private Security Company (“**The Company**”) to provide these reception and security guarding services.

The Contractor is to provide an unarmed guard force for employees and visitors at the designated locations, and to provide protection to property from fire, theft, and disruptive and criminal behaviour.

STANDARD CONDITIONS

PART 1 – COMMON PROVISIONS

1. DEFINITIONS

1.1 In this Contract:

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

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

Activity Start Date means the date by which the Contractor must commence provision of the Services.

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

Authority includes any Australian government (whether Commonwealth, state, territory, or local government) ministry, department, government, governmental or semi-governmental authority, agency, instrumentality, council, corporation, utility or other legal entity.

Business Day any means a day that is not a Saturday, Sunday, public holiday or bank holiday in the Australian Capital Territory, Australia.

Commencement Date is the date of execution of this Contract by the Parties except where otherwise specified.

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

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

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

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

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

Test for more information: <http://finance.gov.au/procurement/procurement-policy-and-guidance/buying/contract-issues/confidentiality-procurement-cycle/practice.html>).

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

Contract Management Group means the group of individuals established by DFAT to provide DFAT with independent technical and other advice on any aspects of the Activity and to assist DFAT to assess the Contractor's performance of the providing the Services.

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

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

Day/s means calendar days.

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

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

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

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

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

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

Escalation Representative means the Representative appointed by either the Contractor or DFAT in accordance with **Clause 32** (Dispute Resolution).

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

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

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

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

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

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

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

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

Material includes property, equipment, information, data, photographs, documentation or other material in any form, including any software, reports, specifications, business rules or requirements, user manuals, user guides, operations manuals, training materials and instructions, and the subject matter of any category of Intellectual Property Rights.

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

MOU or Treaty means the Memorandum of Understanding or Treaty, including any related Subsidiary Arrangement entered into between DFAT and the government of Jordan, if any, which deals with the governmental arrangements applicable to this Contract.

Party means DFAT or the Contractor.

Persistent Breach means **three (3)** or more breaches of the same Performance Standard as outlined in **Clause 8** of the Standard Conditions or any performance standards outlined in **Schedule 1** (Statement of Requirements) in any Australian calendar year.

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

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

PGPA Rules means the Public Governance, Performance and Accountability Rules 2014 (Cth).

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

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

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

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

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

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

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

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

Services means the Services described in the Contract Details, **Clause 8.3** (Performance Standards) in **Part 1** and **Schedule 1** (Statement of Requirements) and the Contractor's other obligations under the Standard Conditions of this Contract.

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

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

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

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

Standard means a document, approved by a recognised body such as Standards Australia, the International Organisation for Standardisation, the International Electrotechnical Commission or the International Telecommunication Union, that provides, for common and repeated use, rules, guidelines or characteristics for goods or services, or related processes and production methods, with which compliance is not mandatory, unless the goods or services are subject to regulation by government.

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

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

Supplies means Activity Administration and Equipment purchased by the Contractor for use in the provision of the Services to DFAT.

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

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

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

Third Party Issues means any issues or events which may affect the provision of the Services and which are within the control of a party other than DFAT or the Contractor.

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

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

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

2. **INTERPRETATION**

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

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

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

3. **INCONSISTENCY**

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

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

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

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

4. **CONTRACT FORMATION**

- 4.1 The Contractor must commence provision of the Services on the Start Date by 26 March 2018 and complete the provision of Services by 25 March 2021, unless the options of further terms are exercised, as set out in the Contract Details.
- 4.2 Each Party must bear and is responsible for its own costs in connection with the preparation, execution and carrying into effect of this Contract.

5. **SCOPE**

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

6. **CONTRACTOR OBLIGATIONS**

- 6.1 The Contractor must provide DFAT with the Services as described in **Schedule 1** (Statement of Requirements) in addition to providing DFAT with any incidental Services to enable performance of this Contract.
- 6.2 The Contractor must follow DFAT directions and cooperate with any third party appointed by DFAT to provide the Services including the provision of any reasonable assistance to third party providers of Services as DFAT may request.
- 6.3 The Contractor must ensure the adequacy and lawfulness of any workers' compensation for its in Jordan and is responsible for the payment of any taxes, or entitlements, other statutory charges and/or any other amount payable to its Personnel and indemnify DFAT in relation to any fine, penalty or other charge imposed on DFAT as a result of the Contractor's non-compliance with this **Clause 6.3**.

- 6.4 The Contractor, where an Australian Standard (or in its absence, international) is applicable for Services must provide evidence of relevant certifications; and comply with periodic auditing by an independent assessor if requested by DFAT.

7. **NON-EXCLUSIVITY AND VOLUME**

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

8. **PERFORMANCE STANDARDS**

- 8.1 In delivering the Services, the Contractor must at all times meet the performance standards outlined in **Schedule 1** (Statement of Requirements).
- 8.2 Where this Contract is for Services they must be performed by the Contractor:
- (a) with due skill, care and diligence;
 - (b) to a professional standard and in a timely manner; and
 - (c) in the most cost-effective manner and using suitable materials.

9. **WARRANTIES**

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

- 9.5 Where the Contractor is a trustee, the Contractor warrants that it enters this Contract personally and in its capacity as trustee and has the power to perform its obligations under this Contract. |

Services

- 9.6 In relation to the Services provided to DFAT by the Contractor under this Contract, the Contractor represents and warrants that:
- (a) its Personnel have the necessary experience, skill, knowledge, expertise and competence to perform the Services; and
 - (b) the Services or related products are free from defects in design, performance and workmanship and are safe and durable
 - (c) the services comply with the applicable Australian (or international) Standards identified in Schedule 1 - Statement of Requirements.

DFAT Property

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

10. **CONFLICT OF INTEREST**

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

11. **INSURANCES**

- 11.1 The Contractor must arrange and maintain for the Term of the Contract unless otherwise specified: |
- (a) Public Liability insurance with a limit of at least **AUD20 million** for each and every claim which covers:
 - (i) loss of, or damage to, or loss of use of any real or personal property; and

- (ii) any personal injury to, illness or death of any person arising from the performance of the Contract.
 - (iii) motor vehicle third party property damage insurance;
 - (b) Workers' Compensation insurance in accordance with **Clause 6.3** (Contractor Obligations) which:
 - (i) fully insures the Contractor for any amount it becomes liable to pay under any statute relating to workers' or accident compensation or for employer's liability at common law;
 - (ii) is effected in Jordan; and
 - (iii) where possible at law, extends to indemnify DFAT as principal for DFAT's liability to persons engaged by the Contractor.
 - (c) property insurance covering any Contract Material, Supplies and the reinstatement of any Data while in the care, custody or control of the Contractor for its full replacement value;
 - (d) professional indemnity insurance to cover the Contractor's obligations under this Contract. The Contractor may obtain the insurance on an annual basis if necessary, but must maintain the necessary insurance each year until the expiration of **three (3) years** after the full Term of the Contract or earlier termination of the Contract;
 - (e) adequate medical and dental insurance for its Personnel who are engaged to operate outside their country of permanent residence; and
 - (f) adequate insurance for medical evacuation and evacuation resulting from an insured event for all its Personnel.
- 11.2 Where there is no workers compensation legislation in force in the Jordan, the Contractor should arrange adequate personal accident and illness insurance (accidental death and weekly benefits) for any of its Personnel not otherwise covered for the Term of the Contract.
- 11.3 The Contractor must, within **fourteen (14) days** after a request by DFAT, provide for any insurance policy: a certificate of currency, a list of exclusions; and the amount of excess payable.
- 11.4 Neither the arrangement and maintenance of insurance nor any failure to arrange and maintain such insurance shall in any way limit, reduce or otherwise affect any of the obligations, responsibilities and liabilities of the Contractor under the other provisions of this Contract or at law.

- 11.5 Failure by the Contractor to maintain all necessary insurances will entitle DFAT to terminate this Contract immediately in accordance with **Clause 50** (Termination for Breach).
- 11.6 Where any insurance policy is to be cancelled, or the level of cover reduced by either the Contractor or its insurer, the Contractor must give DFAT, at least **twenty-eight (28) Business Days** prior notice of the cancellation.
- 11.7 In the event of an insurance claim against the Contractor, any deductible or excess payable under the Contractor's insurance policy will be the responsibility of the Contractor.

12. **INTELLECTUAL PROPERTY**

- 12.1 This **Clause 12** does not affect the ownership of the Intellectual Property Rights in any Pre-existing Contractor Material or Third Party Material.
- 12.2 The Contractor must obtain all necessary copyright and other Intellectual Property Rights permissions before making any Pre-existing Contractor Material or Third Party Material available as a part of the Services.
- 12.3 All Intellectual Property Rights in the Contract Material vest in DFAT on creation.
- 12.4 To the extent that:
- (a) DFAT needs to use any of the Pre-existing Contractor Material or Third Party Material to receive the full benefit of the Services, the Contractor grants to, or must obtain for, DFAT a perpetual, world-wide, royalty free, non-exclusive licence (including the right to sublicense) to use, reproduce, adapt, modify and communicate that Pre-Existing Contractor Material or Third Party Material; or
 - (b) the Contractor needs to use any of the:
 - (i) DFAT Material; or
 - (ii) Contract Material.
 - (c) for the purpose of performing its obligations under this Contract, DFAT grants to the Contractor for the term of this Contract, subject to any conditions or restrictions specified by DFAT, a world-wide, royalty-free, non-exclusive, non-transferable licence (including the right to sublicense) to use, reproduce, adapt, modify, distribute and communicate such Material solely for the purpose of providing the Services.

- 12.5 The licence granted to DFAT under **Clause 12.4 (a)** does not include a right to exploit the Pre-existing Contractor Material or Third Party Material for DFAT's commercial purposes.
- 12.6 The Contractor must deliver all Contract Material to DFAT as may be directed in writing by DFAT.
- 12.7 The Contractor warrants that:
- (a) the warranted Materials and DFAT's use of those warranted Materials, will not infringe the Intellectual Property Rights or Moral Rights of any person; and
 - (b) it has the necessary rights to vest the Intellectual Property Rights and grant the licences as provided in this **Clause 12**.
- 12.8 If a third party claims, or DFAT reasonably believes that a third party is likely to claim, that all or part of the warranted Materials infringe their Intellectual Property Rights or Moral Rights the Contractor must, in addition to the Contractor's obligation under **Clause 13.1** (Indemnities) and to any other rights that DFAT has against the Contractor, promptly, at the Contractor's expense:
- (a) secure the rights for DFAT to continue to use the affected warranted Materials free of any claim or liability for infringement; or
 - (b) replace or modify the affected warranted Materials so that the warranted Materials or the use of them does not infringe the Intellectual Property Rights or Moral Rights of any other person without any degradation of the performance or quality of the affected warranted Materials.
- 12.9 The Contractor warrants and undertakes that the author of any Contract Material, other than Pre-existing Contractor Material, has given or will give written consent to the Specified Acts (whether those Specified Acts occur before or after the consent is given) and that such consent extends directly or indirectly to DFAT.

13. **INDEMNITIES**

- 13.1 The Contractor indemnifies DFAT (and its officers, employees, agents) against any Loss suffered or incurred (including personal injury, death and legal costs and expenses on a solicitor/own client basis) and the cost of time and resources arising from:
- (a) a breach of the Contractor's performance of this Contract;

- (b) an infringement, or an alleged infringement, of the Intellectual Property Rights or Moral Rights of any person, which occurred by reason of the performance or use of the Services;
 - (c) an infringement or an alleged infringement of the provisions of the *Privacy Act 1988* (Cth), in connection with the Services;
 - (d) an investigation carried out by the Ombudsman which arises directly or indirectly, as a result of, and/or due to conduct of the Contractor or its Personnel; and/or
 - (e) any act or omission involving fault on the Contractor's or the Contractor Personnel's part in connection with this Contract.
- 13.2 The indemnity in this **Clause 13** is reduced to the extent that the liability is directly caused by DFAT, its employees or contractors (except the Contractor) as substantiated by the Contractor.
- 13.3 DFAT must take any reasonable action to mitigate any Loss arising out of **Clause 13.1**.

14. **PUBLICITY**

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

15. **AGENCY**

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

16. **AMENDMENT**

- 16.1 The Contractor must not do anything that amounts to a variation of this Contract in whole or in part otherwise than in accordance with this clause.
- 16.2 The provisions of this Contract may not be amended either in law or in equity except in writing and substantially in the form of a Deed of Amendment signed by both DFAT and the Contractor.

17. **WAIVER**

- 17.1 A waiver by either Party of a breach of a particular provision of this Contract by the other Party does not operate as a waiver in respect of any other breach,

and the failure of either Party to enforce at any time a provision of this Contract is not to be interpreted as a waiver of the provision.

18. **SEVERANCE**

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

19. **ASSIGNMENT**

- 19.1 The Contractor may not assign or transfer any of its rights or obligations under this Contract without DFAT's prior written approval, and where consent is given the Contractor must execute a Deed of Novation.

20. **SURVIVAL**

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

Clause 9 (Warranties), **Clause 11** (Insurances), **Clause 12** (Intellectual Property), **Clause 13** (Indemnities), **Clause 24** (Investigation by the Ombudsman), **Clause 25** (Fraud), **Clause 30** (Confidentiality), **Clause 31** (Privacy), **Clause 37** (Recordkeeping), **Clause 39** (Audit) and any other clause, which by its nature, survives the expiry or termination of this Contract.

- 20.2 In addition to the survival of clauses outlined at **Clause 20.1** above, the expiry or termination of this Contract will not extinguish or affect any rights of either Party against the other accrued prior to termination, or arising at any future time from any breach or non-observance of obligations under this Contract.

21. **GOVERNING LAW AND JURISDICTION**

- 21.1 This Contract and any transactions contemplated under this Contract are governed by, and are to be construed in accordance with the laws of the Hashemite Kingdom of Jordan. Each Party to the Contract unconditionally submits to the exclusive jurisdiction of the courts of the Hashemite Kingdom of Jordan.

22. **NOTICES**

- 22.1 A notice given under this Contract:

- (a) must be in writing, signed by the Representative, or other authorised officer, marked for the attention of the person set out below and sent to that persons relevant address, by prepaid ordinary post (airmail if posted to or from a place outside Australia) or by facsimile transmission, or by email to the person's email address; and
- (b) will be taken to be received on the date it is delivered (if hand-delivered to the Party), in the case of a pre-paid letter sent by ordinary mail, on the third Business Day (seventh, if posted to or from a place

outside Australia) after posting, or on the date of transmission if sent in its entirety to the recipient's facsimile machine (if sent by facsimile), or in the case of email, when it is delivered to a system from which the addressee can retrieve it.

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

DFAT

Attention: *[insert name of relevant DFAT officer/Activity Manager and most appropriate address]*

Address: Australian Embassy, Amman

41 Kayed Al-Armoti Street

Abdoun Al-Janoubi

Amman, 11180 Jordan

E-mail: *[insert]*@dfat.gov.au]

Contractor

Attention: *[insert]*

Address: *[insert]*

Fax: *[insert]*

E-mail: *[insert]*

PART 2 – COMPLIANCE

23. COUNTER-TERRORISM

23.1 The Contractor must ensure that funds provided under this Contract (whether through a subcontract or not) do not provide direct or indirect support or resources to:

- (a) organisations and/or individuals associated with terrorism; and
- (b) organisations and individuals for whom Australia has imposed sanctions under: the Charter of the United Nations Act 1945 (Cth) and regulations made under that Act; the Autonomous Sanctions Act 2011 (Cth) and regulations made under that Act, or the World Bank List or a Relevant List.

24. **INVESTIGATION BY THE OMBUDSMAN**

- 24.1 In carrying out the Services, the Contractor, and an employee or subcontractor of the Contractor, may be a ‘Commonwealth service provider’ under **Section 3BA** of the *Ombudsman Act 1976* (Cth).
- 24.2 The Contractor must use its best endeavours, and must ensure that employees and subcontractors of the Contractor use their best endeavours, in undertaking the Services, not to engage in conduct that:
- (a) would, if the Contractor or an employee or subcontractor were an officer of DFAT, amount to a breach of duty or to misconduct; or
 - (b) should be brought to the attention of the principal officer of DFAT as defined in the *Ombudsman Act 1976* (Cth).
- 24.3 If the Commonwealth Ombudsman commences an investigation of conduct of the Contractor, as a Commonwealth service provider, the Contractor, at the cost of the Contractor, must cooperate with the investigator including:
- (a) providing all documentation required by the investigator;
 - (b) making Contractor Personnel available to assist the investigator; and
 - (c) allowing the investigator, at any reasonable time of the day, to enter a place occupied by the Contractor and carry on the investigation at that place.
- 24.4 If the Ombudsman brings evidence to the notice of DFAT concerning the conduct of the Contractor, or of an employee or subcontractor of the Contractor, the Contractor must, at the cost of the Contractor, take whatever remedial action is required by DFAT or by the Ombudsman to rectify the situation.

25. **FRAUD**

- 25.1 The Contractor must not, and must ensure that Personnel do not, engage in any Fraud and must prevent and detect Fraud, including Fraud by its Personnel.
- 25.2 Within **one (1) month** of the Start Date, the Contractor must conduct a Fraud risk assessment and produce a Fraud control strategy in compliance with the Commonwealth Fraud Control Framework available at www.ag.gov.au. The risk assessment and strategy must contain appropriate fraud prevention, detection, investigation and reporting processes and procedures.
- 25.3 The Contractor is responsible for preventing and detecting Fraud including Fraud within those functions outsourced/performed by a subcontractor or

under any other arrangement established by the Contractor relating to the performance of this Contract.

- 25.4 The Contractor must ensure that Personnel are responsible and accountable to the Contractor for preventing and reporting any Fraud as part of their routine responsibilities. The Contractor must ensure that Personnel who are not employed by the Contractor report Fraud to the Contractor within **five (5) Business Days**.
- 25.5 If the Contractor becomes aware of a Fraud, it must report the matter to DFAT in writing within **five (5) Business Days**. The written report to DFAT must be signed by a Contractor authorised person and must include the following (where known):
- (a) the name of the Activity under which DFAT funding is being provided;
 - (b) name of any Personnel (including any subcontractors) involved;
 - (c) the allegation(s), including a chronological account of the facts giving rise to the allegation(s);
 - (d) the names of the suspected offender(s) (where known);
 - (e) details of witnesses;
 - (f) copies of relevant documents;
 - (g) references to any relevant legislation;
 - (h) a nominated contact officer;
 - (i) any other relevant information (for example, political sensitivities, any other party or agency that has been informed, involved or that can assist with investigations); and
 - (j) the current status of any inquiries commenced by the Contractor.
- 25.6 If a report has been made in accordance with **Clause 25.5** above, the Contractor must respond within **five (5) Business Days** to any further requests for information DFAT may make.
- 25.7 If the Contractor becomes aware of a Fraud, the Contractor must, in consultation with DFAT, develop and implement a strategy to investigate the Fraud based on the principles set out in the Australian Government Investigations Standards.

- 25.8 The Contractor must investigate any fraud at the Contractor's cost and in accordance with any directions or standards required by DFAT. Whether the Contractor conducts an investigation or appoints an investigator to conduct an investigation, the person conducting the investigation must possess the minimum qualifications specified in the Australian Government Investigation Standards or an equivalent agreed to by DFAT.
- 25.9 DFAT reserves the right to appoint its own investigator, conduct its own investigation or report Fraud to the appropriate law enforcement agencies or any other person or entity DFAT deems appropriate in Australia or in Jordan for investigation. If DFAT exercises its rights under this **Clause 25.9**, the Contractor must provide all reasonable assistance that may be required at its sole expense.
- 25.10 After the investigation is finished, if a suspected offender has been identified or at the direction of the Director of DFAT Fraud Control Section, the Contractor must promptly report the Fraud to the local police and any other appropriate law enforcement agency in the country where the incident has occurred, unless the Director of DFAT Fraud Control Section agrees otherwise in writing.
- 25.11 If the investigation finds the Contractor or Personnel have engaged in Fraud, the Contractor, in consultation with DFAT, must take all action necessary to recover, replace or return to DFAT any misappropriated funds or property (including paying to DFAT the full value of misappropriated funds and returning or replacing misappropriated or damaged property).
- 25.12 If the investigation finds that a person other than the Contractor or Personnel has engaged in Fraud, the Contractor must, at the Contractor's cost, take all reasonable action to recover any DFAT funds or DFAT-funded property acquired or distributed through the Fraud, including taking recovery action in accordance with recovery procedures (including civil litigation) available in Jordan.
- 25.13 The Contractor must keep DFAT informed, in writing, on a monthly basis, of the progress of its efforts to recover the DFAT funds or DFAT-funded property, including any recovery action.
- 25.14 If the Contractor considers that all reasonable action has been taken to recover the DFAT funds or DFAT-funded property and recovery has not been achieved or recovery has only been achieved in part, the Contractor may seek approval from DFAT that no further recovery action be taken.

- 25.15 If an investigation finds that the Contractor or Personnel have engaged in Fraud, or if DFAT discovers that a Fraud has not been reported to DFAT in accordance with **Clause 25.5**, DFAT reserves the right to:
- (a) terminate this Contract by giving the Contractor notice in writing specifying the date on which the termination will take effect; and
 - (b) not enter into any further agreements with the Contractor until such time as DFAT is satisfied that any recommended changes to the Contractor's management and procedures have been made in order to prevent any further Fraud from occurring and to ensure timely reporting of fraud to DFAT.
- 25.16 Without limitation to DFAT's rights pursuant to **Clauses 50** (Termination for Breach) and **25.15**, if the Contractor fails to comply with its obligations under this **Clause 25** with respect to a Fraud, DFAT may give the Contractor a written notice which specifies:
- (a) the obligation(s) with which the Contractor has not complied;
 - (b) the action that the Contractor must take to rectify the failure; and
 - (c) the date by which the Contractor must rectify the failure.
- 25.17 If the Contractor does not comply with a notice issued pursuant to **Clause 25.16**, DFAT reserves the right to:
- (a) terminate this Contract in accordance with **Clause 50**; and/or
 - (b) exercise its rights pursuant to **Clause 25.8**; and/or
 - (c) withhold payments (or parts of payments) due to the Contractor under this Contract until the Contractor has complied with the notice.
- 25.18 This **Clause 25** survives the termination or expiration of this Contract, including with respect to any Fraud relating to the performance of this Contract, which is not detected until after this Contract has been terminated or has expired.

26. **ANTI-CORRUPTION**

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

26.2 Any breach of this **Clause 26** will entitle DFAT to issue a notice under **Clause 50** (Termination for Breach) to terminate this Contract immediately.

27. **COMPLIANCE WITH LAWS AND POLICIES**

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

- (a) applicable Commonwealth Government policies as set out in this Contract or as notified to the Contractor from time to time.
- (b) Applicable laws of any jurisdiction in which any part of the Contract is performed.

27.2 With respect to any monies payable either to DFAT by the Contractor or to the Contractor by DFAT, the Contractor must:

- (a) comply with all relevant provisions of Commonwealth legislation, financial regulations and directions, except to the extent that the relevant obligation is imposed on DFAT; and
- (b) if required by DFAT, comply with any recommendation by the Commonwealth Auditor-General concerning the handling of DFAT's money.

27.3 In performing any part of this Contract, the Contractor and its Personnel and subcontractors must:

- (a) not engage in any political activity in Jordan during the provision of the Services;
- (b) observe all laws and respect all religions and customs of that country;
- (c) conduct themselves in a manner consistent with the Public Service Act 1999 (Cth) (including the Australian Public Service Values and Employment Principles and Code of Conduct); and
- (d) conduct themselves in a manner consistent with the *DFAT Code of Conduct for Overseas Service* found at www.dfat.gov.au

28. **SECURITY**

28.1 The Contractor is responsible for the security of Contractor Personnel, ensuring that both the Contractor and its Personnel comply with this **Clause 28**.

- 28.2 If, during the Term of this Contract, the Contractor is required to access or otherwise gains access to Official Information or Security Classified Information, it agrees to comply with:
- (a) all relevant security requirements specified in the Commonwealth Protective Security Policy Framework as minimum standards;
 - (b) the security requirements specified in this Contract, the Statement of Requirements; and
 - (c) any variations or additions to the security requirements under this **Clause 28** that DFAT (in its absolute discretion) notifies to the Contractor in writing. Such changes to the security requirements must be implemented by the Contractor from the date specified in the notice (or **five (5) Business Days** after it receives the notice if no date is specified).
- 28.3 The Contractor agrees to perform its security obligations to the highest professional standards described or indicated in the requirements of the Commonwealth Protective Security Policy Framework.
- 28.4 The Contractor must ensure that all its Personnel, when using DFAT's premises or facilities, comply with all DFAT procedures and directions relating to security.
- 28.5 If required by DFAT each of the Contractor's Personnel engaged by or on behalf of the Contractor, must meet all necessary security assessments and standards required by DFAT including:
- (a) an identity check;
 - (b) a National Police Clearance check or equivalent;
 - (c) signing any forms notified to the Contractor by DFAT from time to time; and
 - (d) complying with any other security awareness requirements reasonably requested by DFAT.
- 28.6 The Contractor must:
- (a) notify DFAT immediately on becoming aware of any security incident or security breach and comply with all DFAT directions to rectify the security problem; and

- (b) participate in security reviews of its procedures at least annually as requested by DFAT and participate in any security audit in relation to the Contract, providing full co-operation to DFAT or its independent auditors, including the Australian National Audit Office.

29. **WORK HEALTH AND SAFETY**

- 29.1 The Contractor must perform its, and must ensure that its Personnel, perform their, obligations under this Contract in strict compliance with the *Work Health and Safety Act 2011 (Cth)* ('WHS Act') and are able to participate in:
- (a) any necessary inspections of work in progress;
 - (b) any necessary consultations with DFAT regarding implementation of the WHS Act provisions; and
 - (c) any necessary tests and evaluations of the Services.
- 29.2 The Contractor agrees, when using DFAT's premises or facilities, to comply with all reasonable directions and procedures relating to work health and safety and security in effect at those premises or in regard to those facilities, as notified by DFAT or as might be inferred from the use to which the premises or facilities are being put.
- 29.3 Without limiting any other provision of this Contract, the Contractor agrees to, on request, give all reasonable assistance to DFAT, by way of provision of information and documents, to assist DFAT and its officers as defined in the WHS Act to comply with the duties imposed on them under the WHS Act.
- 29.4 The Contractor acknowledges that DFAT may direct it to take specified measures in connection with the Contractor's work under this Contract or otherwise in connection with this Contract that DFAT considers reasonably necessary to deal with an event or circumstance that has or is likely to have, an adverse effect on the health or safety of persons. The Contractor must comply with the direction at its own cost.

30. **CONFIDENTIALITY**

- 30.1 Neither Party, nor their Personnel may disclose, use or make public the Confidential Information of the other Party (or Confidential Information disclosed by or on behalf of the other) unless required by law, necessary for legal proceedings, provided with the written consent of the relevant Party, or required to manage the Contract. If the Confidential Information is required to be disclosed under this **Clause 31**, a Party must use all reasonable endeavours to ensure that persons receiving the Confidential Information do not further disclose the information.

- 30.2 DFAT Data (including DFAT Confidential Information) must not be removed from the Embassy.
- 30.3 If a Party is required to disclose Confidential Information by law or for legal proceedings, the disclosing Party must provide reasonable notice to the other Party.
- 30.4 The Contractor must obtain from any Personnel who will have access to DFAT Confidential Information, a written undertaking in the form set out at **Schedule 3** (Deed of Confidentiality) to this Contract relating to non-disclosure of that information.
- 30.5 The Contractor acknowledges and agrees to allow DFAT to publish details and report lists of Contracts valued over certain thresholds, and identify Confidentiality agreements in accordance with Senate Order requirements.
- 30.6 The Contractor acknowledges and agrees to allow DFAT to periodically publish detailed information about work under the Contract on the DFAT website. This will include information about the Contractor's policies, plans, processes, the results of the Contractor's activities and DFAT's evaluations of the Contractor's performance. DFAT and the Contractor will consult prior to publication or release of information regarded as sensitive (for example, Fraud or corruption matters).
- 30.7 The identity of the Contractor's Personnel is not Confidential Information, nor is this Contract.
- 30.8 The Contractor must ensure that it obtains any necessary consent from its Personnel in relation to the requirements of this **Clause 30**.
- 30.9 Upon expiry or earlier termination of this Contract, the Contractor must either destroy or deliver to DFAT all DFAT Confidential Information.

31. **PRIVACY**

- 31.1 The Contractor is a 'Contracted Service Provider' within the meaning of the *Privacy Act 1988* (Cth) and, to the extent that it deals with personal information in the provision of Services, agrees to:
- (a) comply with the Australian Privacy Principles as they apply to DFAT, including:
 - (i) to use or disclose personal information only for the purposes of this Contract;
 - (ii) take necessary steps to ensure adequate security measures are in place to protect personal information from misuse,

interference and loss and from unauthorised access, modification or disclosure;

- (iii) comply with the requirements of Australian Privacy Principle 8 regarding the disclosure of personal information to an overseas recipient;
 - (b) not do any act, or engage in any practice, that would – if done in or engaged in by DFAT – breach the Australian Privacy Principles;
 - (c) comply with any reasonable request or direction of DFAT or the Privacy Commissioner in relation to access to, or handling of, personal information;
 - (d) immediately notify DFAT if it becomes aware of a breach or possible breach of any obligations referred to in this clause, or the initiation of any action by the Privacy Commissioner relevant to this Contract; and
 - (e) investigate any complaint arising out of a breach or possible breach of any obligations referred to in this clause, and notify DFAT of that investigation and outcome.
- 31.2 The Contractor agrees to indemnify DFAT in respect of any loss, liability or expense suffered or incurred by DFAT which arises directly or indirectly from a breach by the Contractor of any obligations referred to in this clause.

PART 3 – CONTRACT MANAGEMENT

32. CONTRACT MANAGEMENT GROUP

- 32.1 Each Party must identify one (1) Contract Management Representative to be responsible for operational coordination and contract management and one (1) Escalation Representative to assist in any Dispute Resolution, both to be listed in the Contract Details, and to be changed in accordance with **Clause 22** (Notices).
- 32.2 If required by DFAT, this Contract Management Group may meet on a weekly basis for the first **three (3) months** from the Start Date of this Contract and then at a frequency (at least monthly) to be agreed between the Parties.
- 32.3 The Contractor must attend and participate in all Contract Management Group meetings as directed by DFAT and when required, consult, cooperate with, and promptly provide input, information and advice to the Contract Management Group on progress and performance of the Activity (including

any matters, concerns, circumstances or events which may be affecting or may affect the Contractor's relationship with Stakeholders, DFAT or the Contract Management Group), and suggest actions to mitigate these, or assist in the prompt resolution of these.

- 32.4 A representative of the Contractor must take Minutes of all Contract Management Group Meetings and distribute copies of the Minutes to each member of the Contract Management Group within **ten (10) Business Days** after the relevant meeting.

33. **REVIEW**

- 33.1 At any time DFAT may itself, or may appoint an independent person or persons, to conduct a review of any matter capable of affecting the performance of this Contract.
- 33.2 The Contractor and its Personnel must participate cooperatively in any reviews conducted by DFAT or its nominees, while continuing to perform its obligations under this Contract, and respond in writing to any draft review report within **twenty-eight (28) Business Days** after the date of receipt by the Contractor of the draft report.
- 33.3 Each Party must bear its own costs of any such reviews conducted by or on behalf of DFAT.

34. **PERFORMANCE ASSESSMENT**

- 34.1 The Contractor acknowledges and agrees that DFAT may issue in relation to this Contract a Contractor performance assessment in any form that it deems appropriate.

35. **SPECIFIED PERSONNEL**

- 35.1 It is a material term of this Contract that where Specified Personnel are identified in **Schedule 1** (Statement of Requirements) the Services must be provided by them in their designated roles for the Term of the Contract. If any of them are unable to do so for a period of more than **ten (10) Business Days** the Contractor must not remove or replace them, but must notify DFAT in accordance with **Clause 22** (Notices) and seek DFAT's approval for proposed replacement personnel within **ten (10) Business Days** and at no additional cost to DFAT.
- 35.2 The Contractor must advise DFAT promptly in writing of any change in the circumstances of any Specified Personnel that would reasonably be considered likely to affect DFAT's assessment of the person under the Contract. In the event DFAT directs the Contractor to remove any Personnel as a result of

notification under this Clause, the Contractor must identify replacement personnel within **ten (10) Business Days**.

- 35.3 The Contractor must only propose replacement personnel with suitable skills and qualifications to act as replacement Specified Personnel and able to commence providing the Services under the Contract immediately.
- 35.4 DFAT may give notice to the Contractor in accordance with **Clause 22**(Notices) that requires the Contractor to remove any Personnel from work in respect of the provision of the Services and propose new Personnel in accordance with **Clauses 35.1** and **35.2** above.
- 35.5 The Contractor must not engage a currently serving Commonwealth employee in any capacity in connection with the Services without DFAT's prior written approval.
- 35.6 The Contractor must not engage a Former DFAT Employee in any capacity in connection with the Services unless DFAT has approved the engagement.

36. **SUBCONTRACTING**

- 36.1 The Contractor may not subcontract the provision of the whole of the Services and must not enter into a subcontract relating to the provision of the Services with a person who is or an entity which is listed on a World Bank List or a Relevant List.
- 36.2 The Contractor must obtain DFAT's prior written approval to subcontract with any third party, except Specified Personnel, to the value of **AUD100,000** or more. In granting its approval, DFAT may impose any conditions it considers appropriate.
- 36.3 Where DFAT objects to the Contractor's preferred subcontractor or DFAT nominates a particular subcontractor in place of the Contractor's preferred subcontractor, the Contractor must enter into an agreement with the subcontractor as directed by DFAT on the basis of remuneration approved by DFAT and provide DFAT with a copy of the executed subcontract.
- 36.4 If the Contractor subcontracts its performance of any part of this Contract, the Contractor will remain liable for the acts, defaults and omissions of the subcontractor as if they were the Contractor's acts, defaults and omissions.
- 36.5 Any subcontract entered into by the Contractor for the performance of any part of this Contract must contain clauses:
 - (a) that authorise the Commonwealth to publish details of the name of the subcontractor and the nature of the Services that the subcontractor is subcontracted to perform;

- (b) under which the subcontractor assumes all the Contractor's obligations (including all obligations under Australian law and policies), and gives all the warranties the Contractor gives, under this Contract to the extent they are relevant to the Services that the subcontractor is subcontracted to perform; and
- (c) that give DFAT the rights of substitution, to further novate the subcontract to another contractor.

36.6 The Contractor entering into a subcontract for the provision of parts or elements of the performance of the Services, or provision of the Goods, does not create any contractual relationship between DFAT and the subcontractor on any matter capable of affecting the performance of this Contract.

PART 4 – RECORDS, AUDIT AND REPORTS

37. RECORDKEEPING

37.1 The Contractor must ensure that it and its Personnel at all times to the satisfaction of DFAT:

- (a) keep accurate and up-to-date accounts and records relating to the performance of its obligations under this Contract (including receipts and expenses) in a manner that enables them to be conveniently and properly audited;
- (b) record all operational activities in relation to the provision of the Services, including to enable the prevention, detection and investigation of Fraud as required by Clause 25 (Fraud);
- (c) keep accurate and up-to-date accounts and records which contain details of the disposition of Supplies as agreed to by DFAT, such as replacement, or write-off.
- (d) comply with any standards prescribed by DFAT from time to time for the creation, care, access, storage, preservation and return or legal destruction of its accounts and records (including Contract Material) and any DFAT material;
- (e) provide all reasonable assistance requested by DFAT for any administrative or statutory review concerning this Contract; and
- (f) retain copies of all accounts and records for a period of seven (7) years after termination or expiration of this Contract or completion of any legal action arising out of or in connection with this Contract, whichever occurs later.

- 37.2 DFAT retains legal ownership of all records created for the provision of the Services by the Contractor. Upon termination or completion of this Contract, the Contractor must transfer all records created and maintained for Services provided by the Contractor under this Contract to DFAT in a format and manner which allows the records to be quickly and easily retrieved, reviewed and utilised by DFAT.
- 37.3 The Contractor must store, dispose of, and/or transfer, custody or the ownership of any Commonwealth records in accordance with standards issued under the *Archives Act 1983* (Cth).
- 37.4 The Contractor must comply with any direction given by DFAT for the purpose of transferring Commonwealth records to the possession of DFAT.
- 37.5 The Contractor must maintain up to date records of the names of all subcontractors engaged by the Contractor to perform part of the Services.
- 37.6 All Commonwealth records must be returned to DFAT at the conclusion of the Contract.
- 37.7 The Contractor may keep one (1) copy of all records created during the course of the provision of the Services for legitimate risk management and audit purposes.

38. **ACCESS TO PREMISES AND RECORDS**

- 38.1 The Contractor must:
- (a) produce records, books and accounts for inspection by DFAT immediately upon request (including where entering into a subcontract and executing a Deed of Novation and Substitution) at the same time or within ten (10) Business Days of execution of the subcontract by the Contractor.
 - (b) permit each of DFAT, the Commonwealth Auditor-General and the Information Privacy Commissioner or Privacy Commissioner as appropriate at reasonable times and on reasonable notice, through their officers, agents or advisers authorised on their behalf, to:
 - (i) access the Contractor's premises;
 - (ii) examine, inspect, audit and copy any accounts and records relating to this Contract or the Services;
 - (iii) provide all necessary facilities for this purpose; and

- (iv) in the case of documents or records stored on a medium other than in writing, make available to DFAT on request reasonable facilities necessary to enable a legible reproduction to be created.

38.2 In the exercise of the rights under this **Clause 38**, DFAT must use reasonable endeavours not to unreasonably interfere with the Contractor's performance under the Contract in any material respect.

39. **AUDIT**

39.1 DFAT has the inspection and audit rights described in **Clause 38** (Access to Premises and Records) and this **Clause 39** and subject to these provisions, each Party is to bear its own costs in relation to any audit.

39.2 DFAT or a representative of DFAT may conduct audits relevant to the performance and/or compliance by the Contractor with any of its obligations under the Contract, including audits of the Contractor's relevant:

- (a) operational practices and procedures;
- (b) Activity and financial management governance;
- (c) oversight practices and procedures;
- (d) invoices and reports;
- (e) Material (including records, books and accounts) in the possession of the Contractor; and/or
- (f) other matters determined by DFAT to be relevant to the performance of the Contractor's obligations under the Contract.

39.3 Where DFAT has reasonable concerns regarding the Contractor's financial management systems, DFAT must provide the Contractor with written notification of those concerns outlining the action to be undertaken by the Contractor. These actions include:

- (a) a request that the Contractor's Company Director provide a Statutory Declaration confirming that he/she has sighted the necessary supporting documentation and confirms the veracity of the claim for payment;
- (b) the Contractor providing DFAT with additional documentation to support the claim for payment; and/or

- (c) a direction that the Contractor engage an independent, suitable organisation to undertake an audit of those financial management systems, including its invoicing procedures and practices, with a copy of the audit report to be provided to DFAT.
- 39.4 The Contractor must respond to any notice received under **Clause 39.3** above within **fourteen (14) Business Days**.
- 39.5 DFAT reserves the right, at any time to direct the Contractor to engage an independent audit firm and to provide DFAT with a copy of the audit report from the independent auditor.
- 39.6 If DFAT directs the Contractor to undertake an independent audit it must do so at the Contractor's cost, and the Contractor must comply with any directions given by DFAT regarding terms of reference or required auditing standards.
- 39.7 Where a direction has been made under **Clause 39.6**, DFAT will not make any further payments owed to the Contractor pending certification of the reliability of the Contractor's financial management systems and the veracity of the invoicing procedures and practices.
- 39.8 This **Clause 39** applies for the term of this Contract and for a period of **seven (7) years** from the date of its expiration or termination.
- 39.9 The requirement for access and participation in audits does not in any way reduce the Contractor's responsibility to perform its obligations in accordance with this Contract.

40. **REPORTS**

- 40.1 The Contractor must provide DFAT, and if applicable other Commonwealth agencies, at its own cost, the reports described in **Schedule 1** (Statement of Requirements).
 - 40.2 The Contractor must at its own cost comply, with DFAT's reasonable directions as to the form and content of reports or other written information required under this Contract. DFAT must give the Contractor at least **two (2) weeks'** notice of a change in the requirements for reports, unless otherwise agreed with the Contractor.
 - 40.3 DFAT may reject and withhold payment of Fees for any report which does not, in the opinion of DFAT, meet the requirements or standards outlined in the Contract until the Contractor rectifies the report. |
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PART 5 – PAYMENT

41. INVOICING

- 41.1 The Contractor must invoice DFAT for the provision of Services on a monthly basis, or as otherwise described in **Schedule 2** (Pricing Schedule).
- 41.2 For the purposes of this **Clause 41** (Invoicing) and **Schedule 2** (Pricing Schedule), an invoice is correctly rendered if:
- (a) it is in the form of an invoice approved by DFAT;
 - (b) it is accompanied by supporting documentation in respect of the Services in the form, and containing the information, reasonably required by DFAT;
 - (c) it is correctly addressed to DFAT and is correctly calculated;
 - (d) it relates only to Services that have been delivered to DFAT in accordance with the Contract;
 - (e) reimbursable costs, and amounts owing to suppliers or subcontractors have been paid before submission of the invoice to DFAT;
 - (f) the invoice details all Services provided by the Contractor against the Fees and/or Reimbursable Costs referred to in Schedule 2 (Pricing Schedule) and records the amount payable in respect of each category of Services described in the Contract;
 - (g) the Fees and Reimbursable Costs claimed in the invoice are inclusive of all costs, expenses, disbursements, levies and taxes and the actual costs and expenses incurred by the Contractor in providing the Services;
 - (h) it is in Jordanian Dinars; and
 - (i) a company Director of the Contractor or authorised representative of the Contractor has certified that the invoice is accurate and represents the Services provided.
- 41.3 If an invoice is found to have been rendered incorrectly, any underpayment or overpayment shall be recoverable by or from the Contractor, as the case may be and, without limiting recourse to other available remedies may be offset against any amount subsequently due from DFAT to the Contractor.

42. **PAYMENT**

- 42.1 Subject to this Contract, DFAT agrees to pay the Contractor the Fees and/or Reimbursable Costs for the provision of the Services in accordance with **Schedule 2** (Pricing Schedule).
- 42.2 Without limiting **Clause 45** (Taxes), the amounts payable under **Schedule 2** (Pricing Schedule) are inclusive of all taxes and duties (including GST) payable in connection with the Services.
- 42.3 Subject to the Contract, DFAT must pay the Fees and/or Reimbursable Costs within **thirty (30) days** of:
- (a) receipt of a correctly rendered invoice in accordance with Clause 41(Invoicing); and
 - (b) DFAT's acceptance of the satisfactory completion of the Services and/or delivery of the Goods or relevant Payment Milestone as specified in Schedule 2 (Pricing Schedule).
- 42.4 DFAT will pay all amounts payable to the Contractor under this Contract into a bank account nominated by the Contractor. The Contractor must provide DFAT with the necessary bank account details as soon as possible following execution of this Contract.
- 42.5 Any requests by the Contractor to change the bank account for payments under this Contract must be provided to DFAT with **thirty (30) Business Days** written notice.
- 42.6 If **Clause 42.5** above is not complied with, DFAT will not be responsible for any costs incurred by the Contractor as a result of the change including bank charges or exchange rate variances.
- 42.7 If the Contractor does not have an Australian Business Number ('ABN'), DFAT will be required to hold a prescribed proportion of the amount payable to the Contractor under the Contract, unless the exceptions under **Division 12** of the PAYG legislation apply.

43. **PAYMENT NOT AN ADMISSION OF LIABILITY**

- 43.1 A payment by DFAT to the Contractor is not an admission of liability. If DFAT makes a payment and subsequently learns that performance specifications have not been met or that, on review, the amount is greater than the amount payable under the Contract, the payment shall be deemed an overpayment and recoverable from the Contractor.

- 43.2 Any overpayment may be offset against any amount subsequently due to the Contractor or may be recovered in Court as a debt due and payable to DFAT by the Contractor.
- 43.3 Where DFAT deducts the amount of a debt or payment in accordance with **Clause 43.2** above, it must advise the Contractor in writing that it has done so.

44. **DISPUTED INVOICES**

- 44.1 DFAT need not pay an amount to the Contractor that is disputed in good faith by DFAT until the dispute is resolved.
- 44.2 If DFAT considers in good faith that a Contractor invoice exceeds the amount properly payable to the Contractor, DFAT must:
- (a) notify the Contractor of the amount in dispute within ten (10) Business Days after receipt of the invoice; and
 - (b) pay the balance of the invoice in accordance with Clause 42.3 (Payment).
- 44.3 The Contractor must continue to comply with its obligations under this Contract, notwithstanding that there is a disputed invoice.

PART 6 – REMEDIES, DISPUTES AND TERMINATION

45. REMEDIES

45.1 The Contractor must remedy at its own cost:

- (a) any failure to comply with the requirements of this Contract as soon as practicable after becoming aware of the failure; and
- (b) if this is a Goods Contract, any errors or defects in the Goods notified to the Contractor by the DFAT Representative for the warranty period described in the Contract Details.

45.2 If the Contractor fails to rectify an error or a defect under **Clause 47.1** above within **ten (10) Business days** after notification by the DFAT Representative, DFAT may, without limiting the Contractor's warranties and obligations under this **Clause 47**, perform or have performed the necessary remedial work at the expense of the Contractor, and may recover such expense as a debt due to DFAT payable by the Contractor on demand.

46. DISPUTE RESOLUTION

46.1 If a dispute arises under this Contract, prior to commencing any arbitration or court proceedings – other than for interlocutory relief or where an authority of the Commonwealth, state or territory is investigating a breach or suspected breach of the law by the Contractor, or DFAT is exercising a right to terminate – the Parties must act in good faith and use their reasonable endeavours to resolve the dispute as follows:

- (a) the Party claiming that there is a dispute must give the other a written notice in accordance with Clause 22 (Notices) setting out the nature of the dispute;
- (b) within ten (10) Business Days following notice, attempt to resolve the dispute through direct negotiation between the Contractor Representative and the DFAT Representative;
- (c) if still unresolved, refer the dispute to the Parties' Escalation Representative as set out in the Contract Details, who must in good faith work to resolve the dispute within a further ten (10) Business Days or any other agreed period;
- (d) if still unresolved, the Parties have thirty (30) Business Days from the receipt of the notice to reach a resolution or to agree that the dispute is to be submitted to mediation or conciliation rather than litigation or arbitration; and

- (e) if the dispute is not resolved in that time or there is no agreement to, or submission of the dispute to mediation or conciliation within a further thirty (30) Business Days, then either Party may commence legal proceedings.

46.2 Subject to **Clause 42** (Payment), the Contractor and Personnel must continue to comply with its obligations under this Contract, notwithstanding that there is a dispute between the Parties, or that legal proceedings are pending or current.

47. **EARLY NOTIFICATION**

47.1 The Contractor must immediately notify DFAT if the Contractor (including Contractor Personnel) or a subcontractor is:

- (a) undergoes a change in Control of the Contractor's legal entity;
- (b) listed on a World Bank List or on a Relevant List;
- (c) subject to any proceedings or an informal process which could lead to listing on a World Bank List or listing on a Relevant List;
- (d) temporarily suspended from tendering for World Bank contracts by the World Bank, pending the outcome of a sanctions process;
- (e) temporarily suspended from tendering by a donor of development funding other than the World Bank; and/or
- (f) the subject of an investigation (whether formal or informal) by the World Bank or another donor of development funding.

47.2 If the Contractor becomes aware of any issue that may affect its performance of the Contract and in particular its compliance with any of the following clauses: **Clause 8** (Performance Standards), **Clause 9** (Warranties), **Clause 10** (Conflict of Interest), **Clause 11** (Insurances), **Clause 23** (Counter -Terrorism), **Clause 25** (Fraud), **Clause 26** (Anti-Corruption), **Clause 27** (Compliance with Laws and Policies), **Clause 28** (Security), **Clause 30** (Confidentiality), or **Clause 31** (Privacy) and/or **Clause 36** (Subcontracting), (including the use or disclosure of Sensitive, Personal or Confidential Information, or any Security Incident that arises), it must inform DFAT immediately.

48. **TERMINATION FOR BREACH**

48.1 Failure by the Contractor to notify DFAT under **Clause 49** (Early Notification) may result in immediate termination for breach under this **Clause 50**.

48.2 DFAT may terminate this Contract by notice to the Contractor in accordance with **Clause 22** (Notices), if the Contractor, in any of the following circumstances:

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

proceedings or an informal process that may lead to them becoming so listed.

49. **TERMINATION FOR CONVENIENCE**

- 49.1 DFAT has an unfettered discretion to, by notice to the Contractor in accordance with **Clause 22** (Notices), terminate or reduce the scope of this Contract from the time specified in the notice.
- 49.2 If DFAT exercises its right in **Clause 51.1** above, the Contractor must comply with directions given by DFAT, cease or reduce (as applicable) the performance of work and immediately do everything possible to mitigate its losses, and all other losses, costs and expenses in connection from, or arising out of Termination.
- 49.3 If DFAT terminates this Contract under this **Clause 51**, DFAT will only be liable for:
- (a) fees, as payable under Schedule 2 (Pricing Schedule) for Services provided before the effective date of termination on a pro-rata basis; and
 - (b) any reasonable, substantiated Reimbursable Costs which in DFAT's opinion were properly incurred by the Contractor in respect of unavoidable expenses sustained or incurred or that are contractually committed by the Contractor on the Business Day notice is given, and that are directly attributable to the termination or reduction in scope of this Contract (other than the cost of redundancies or the cost of terminating any subcontracts, and not including loss of profits or any other form of expectation loss).
- 49.4 Subject to this Contract, on expiry or termination:
- (a) the Parties are relieved from future performance of this Contract, without prejudice to any right of action that has accrued at the date of termination;
 - (b) all licences and authorisations granted to the Contractor by DFAT under this Contract terminate immediately; and
 - (c) the Contractor must provide DFAT with all reasonable assistance and information to assist DFAT in transitioning to DFAT's new provision of Services arrangements.
- 49.5 The Contractor's obligations under **Clause 51.4** above include, at DFAT's request, continuing for a period of up to **three (3) months** to supply the Services to DFAT on the terms and conditions of this Contract until the time

DFAT advises the Contractor that it is no longer required to do so. This clause does not apply during any period DFAT is in breach of an obligation to pay money under this Contract.

- 49.6 DFAT is not obliged to make any further payments to the Contractor except under **Clause 51.3** above.

50. **FORCE MAJEURE**

50.1 Despite any other provision of this Contract, if a Party is unable to perform or is delayed in performing an obligation under this Contract (other than an obligation to pay money), by reason of a Force Majeure Event, and notice has been given in accordance with **Clause 52.2** below:

- (a) that obligation is suspended, but only so far and for so long as it is affected by the Force Majeure Event; and
- (b) the affected Party will not be responsible for any loss or expense suffered or incurred by any other Party as a result of, and to the extent that, the affected Party is unable to perform, or is delayed in performing, its obligations because of the Force Majeure Event.

50.2 A Party affected by a Force Majeure Event must give the other Party a written notice which:

- (a) sets out details of the Force Majeure Event (including the effect of the Event on the Contract and the details of any insurances available to mitigate any damage if any);
- (b) estimates the likely period of time that the Party will not be able to perform, or the Party will be delayed in performing, its obligations; and
- (c) provides details of the action that it has taken, or proposes to take, to remedy the situation.

50.3 The Contractor must:

- (a) arrange a meeting with DFAT within 24 hours of a notice given under Clause 52.2 above; and
- (b) take all reasonable steps to avoid, remove or limit the effects of the Force Majeure Event on its performance of the suspended obligations as quickly as possible and re-commence performing them soon as possible.

51. **EXTENSION OF TIME**

- 51.1 Subject to **Clause 53.5** below neither DFAT nor the Contractor shall be in breach of the Contract to the extent that performance of their Contract obligations is prevented due to any significant change in circumstances (including change in Jordanian laws, and industrial disputes) that are beyond the control of the Contractor.
- 51.2 Where in the Contractor's reasonable opinion there is likely to be a delay in the Contractor's discharging of an obligation under the Contract due to **Clause 52** (Force Majeure) it must notify DFAT in accordance with **Clause 52.2** providing details of the delay and its likely impact on the performance of the Contract.
- 51.3 Where **Clause 52** (Force Majeure) has been triggered, the Contractor must take all reasonable steps to mitigate the effects of any delay, use its best endeavours to continue to perform the obligations, and where necessary, make a request in writing to DFAT for an extension of time outlining the length of the extension which the Contractor considers reasonable in all the circumstances in the form of an Amendment Proposal in accordance with **Clause 16** (Amendment).
- 51.4 DFAT must give consideration to the Contractor's recommendations and request for an extension of time as soon as practicable after receiving the request in accordance with **Clause 53.3** above and may grant approval subject to conditions.
- 51.5 If DFAT approves in writing a request by the Contractor for an extension of time under **Clause 53.3** above, any resultant changes to the Contract must be documented in a 'Deed of Amendment'.
- 51.6 Even if the Contractor has not given notice under **Clause 53.2** above, where DFAT considers that a delay has arisen, in whole or in part, because of an act or omission on the part of DFAT, its employees or agents, DFAT may, by notice in writing to the Contractor, extend the time for performance of the relevant obligation of the Contractor.
- 51.7 Where an extension of time has been granted and the Contractor has been unable to perform its obligations for **forty-five (45) Business Days** or more, DFAT may suspend the Contract, reduce the scope or terminate the Contract by notice in writing.
- 51.8 In the event of suspension, deletion or termination of the Services or the Contract in accordance with this **Clause 53**, DFAT will be liable for Fees and Reimbursable Costs in accordance with **Clause 51.3** (Termination for Convenience).

52. **LIABILITY**

52.1 If any Party to this Contract consists of more than one person then the liability of those persons in all respects under this Contract is a joint liability of all those persons and a separate liability of each of those persons.

52.2 Subject to any law to the contrary, DFAT, its employees, agents and advisors, disclaim all liability for any Loss or damage suffered by any other person acting on any part of the information made available to the Contractor, in respect of the Activity, whether or not the Loss arises in connection with any negligence, default or lack of care on the part of DFAT, its employees, agents or advisors.

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SCHEDULE 1– Statement of Requirements

A. Term

The commencement date for the provision of these services will be 26 March 2018. The term of this Contract is for an initial period of three years, until 25 March 2021, with the option to extend the contract for two further one year terms, until 25 March 2023.

B. The Services

1 Introduction

1.1. The Commonwealth of Australia, represented by the Department of Foreign Affairs and Trade (“**DFAT**”), requires the services of a suitably licensed, qualified and experienced security contractor to provide reception, escorting and security guarding services at the Australian Embassy, Amman, Jordan, nominated Embassy residences and other nominated locations in Amman. (“**Services**”).

1.2. Background

DFAT role is to advance the interests of Australia and Australians internationally. This involves working to strengthen Australia's security, enhancing Australia's prosperity, and helping Australian travellers and Australians overseas. DFAT provides foreign, trade and development policy advice to the government. DFAT works with other government agencies to ensure that Australia's pursuit of its global, regional and bilateral interests is coordinated effectively. DFAT is the Australian Commonwealth Government Agency with responsibility for protective security at Australia’s foreign missions.

1.3. Protective Security Services - Summary of Requirements

DFAT has a requirement for Reception and Security Guarding Services for its Australian Embassy Amman compound, residences and other nominated locations. DFAT is seeking to engage a suitably qualified and experienced local Private Security Company (“**The Company**”) to provide these reception and security guarding services.

The Contractor is to provide an unarmed guard force for employees and visitors at the designated locations, and to provide protection to property from fire, theft, and disruptive and criminal behaviour.

The International Code of Conduct for Private Security Providers

The International Code of Conduct for Private Security Providers (The Code) of 9 November 2010 establishes a set of principles for Private Security Providers to create better governance, compliance and accountability with principle stipulations regarding respect for human rights, humanitarian law and respect of cultures. Australia is a supporter of The Code and the Contractor would be expected to provide the Services under this Contract in the spirit of The Code's principles.

The Contractor would also be expected to work within any recognised international standard that provides best practice guidance or regimes for implementation and compliance with The Code, in providing the Services under this Contract.

Compliance with Relevant Laws

The Contractor and its officers, employees, subcontractors and agents will comply with all relevant laws including those of Hashemite Kingdom of Jordan, the Contractor's country of incorporation and any other relevant law. The Contractor must also notify DFAT of any breaches of any relevant law in their response.

2. Requirement

2.1 The Company must provide:

a. Guards at the Australian Embassy compound as follows:

i. Work Days

1. Day Shift A (0700-1500) - 1 Shift Supervisor and 8 guards, at least 2 of which must be female.
2. Day Shift B (1500-2300) - 1 Shift Supervisor and 3 guards, at least 1 of which must be female.
3. Night Shift C (2300-0700) – 1 Shift Supervisor and 2 guards.

ii. Weekends and Public Holidays

1. 2 x Day and 1 x Night Shift (as above) – 1 Shift Supervisor and 2 guards.

b. Additional guards will occasionally be required as dictated by the Embassy's operational requirements. These guards are to be available on call when required. The company is to be able to supply 2 trained guards within 24 hours' notice, 4 within 3 days, and 10 additional guards within 7 days.

c. Security Services including:

- . visitor reception (including pedestrian screening and vehicle searching);

- . escorting duties for visitors and contractors;
- . static checkpoints, mobile foot patrols, building checks and incident response;

Security services as specified in Section 3 are to be performed to the standards set out in this Schedule and detailed in Standard Operating Procedures (SOP) which will be agreed between DFAT and the Company;

- d. Supervisors must be fluent in written and verbal English and Arabic languages (to a level satisfactory to DFAT);
- e. Guards must have proficient English comprehension and language skills (to a level satisfactory to DFAT);
- f. Supervisors and guards must be trained by the Company to a competent standard in the use of the following security equipment and skills:
 - i. hand held metal detector
 - ii. walk through metal detector
 - iii. X-ray machine operation and image interpretation
 - iv. explosive detection equipment
 - v. under-vehicle search mirror
 - vi. external and internal vehicle search
 - vii. use of hand held radios/base station radio
 - viii. security cameras
 - ix. log books/incident reporting and forms
 - x. the Company must provide documentation pertaining to the completion of training e.g. Certificates etc.
- g. Supervisors and guards must be trained by the Company to a competent standard in Basic First Aid (including cardiac de-fibrillator) and fire-fighting skills (portable extinguisher and fire hose), documentation should be supplied as proof of training and currency.
- h. Supervisors and Guards selected for positions at the Australian Embassy will be interviewed by DFAT before commencing duties. DFAT retains the right to reject proposed Supervisors and Guards if they are deemed unsuitable. Supervisors and Guards are to be assigned to the Embassy for the duration of the contract or until such time as they are dismissed from service by DFAT or the Company with written consent from DFAT. The Company is not to transfer Guards from the Embassy without written consent from DFAT.

- i. Incident and other reports as specified in SOP, and
- j. Attend such meetings as required by the Embassy as set out in this Schedule and in SOP.

3. Security Services

3.1 The Security Services to be provided by the Company to DFAT under this contract are as follows:

a. **Reception and Security Guarding Services** – the Company is required to provide the following reception and security guarding services:

- i. pedestrian and vehicular access control to the Embassy and nominated residential and other locations
- ii. operate and maintain security detection equipment in accordance with Embassy Security SOP
- iii. maintain relevant registers and documentation
- iv. external and internal perimeter mobile foot patrols
- v. monitor the surrounding area of the Embassy and other nominated locations and report suspicious activities to the Security Manager
- vi. monitor the alarms, access control systems, radios and the Closed Circuit Television (CCTV), where fitted, and respond when necessary
- vii. during fire or building evacuations/emergencies act in accordance with the directions of the Chief Warden, the Head of Mission, the Post Security Officer (PSO), the Regional Security Advisor (RSA) the Senior Admin Officer (SAO) and follow agreed Emergency Procedures
- viii. respond to and report security incidents immediately or as soon as practicable
- ix. report maintenance issues to the Embassy maintenance section
- x. conduct weekly radio checks
- xi. convey basic information to visitors on Embassy processes for visa and consular services
- xii. receive, scan and deliver mail to the Embassy reception
- xiii. remove from the premises visitors or staff who are threatening staff or otherwise not complying with security requirements, under direction from the Embassy
- xiv. perform other duties as directed by the PSO, RSA, SAO and Security Manager (SM)

b. **Emergency Response Services** – the Company is required to provide the following emergency response services:

- i. Alert the PSO, RSA, SAO or SM of any emergency.

- ii. Respond immediately, in accordance with the Embassy's Emergency Procedures, to duress and intruder alarms, bomb or other security threats (including protesters), as well as to any fire emergency when alerted by alarm or radio, and work with any Embassy staff who may also be responding to the incident.
 - iii. Withhold access by Police, Fire and Ambulance services, to the Embassy until approval for such access has been expressly provided by the HOM, PSO, RSA or SAO.
 - iv. With resources provided by the Embassy, attempt to fight fires where it is safe to do so.
 - v. Provide first aid to casualties until such time as relieved by qualified Jordanian medical services.
- c. **Escort Duties** – the Company will be required to provide visitor and contractor escort services as directed by PSO, APSO and SM.
- d. **Guard Hours.** Supervisors and Guards are to be rostered at the Embassy or other nominated locations for shifts of up to a maximum of no more than 8hrs continuous with a minimum of 8hrs between shifts. Supervisors and Guards are not to be rostered on consecutive (back to back) shifts unless approval is given by the PSO, RSA or SAO. Where a new shift Supervisor or Guard has not arrived on time, a Guard(s) and/or Shift Supervisor is to remain on duty until an authorised replacement is provided by the Company. The maximum time allowed for a shift in these circumstances is 12 hours. If a 12 hour shift is completed a minimum break of no less than 10 hours must be taken before commencement of the next shift. Guard rosters are to be completed by the Company contract manager in consultation with the SM. In situations where the Embassy needs additional guards at short notice, the Company is to take all steps necessary to ensure this request is met.
- e. **Guards Arming Policy.** Supervisors and guards are not permitted to be armed with firearms, knives or any other offensive or defensive weapon. Any item deemed to be a weapon (e.g. firearms, knives and all other type of weapons) are strictly forbidden from being brought into the Australian Embassy, residences and other nominated locations by employees or representatives of the Company.
- f. **Security Incidents.** Guards must respond to security incidents and provide assistance to staff and police, as approved by Embassy staff. They must ensure prompt reporting of the incident to the SM or the PSO, RSA or SAO. They must record in full detail, all security incidents at the Embassy, residences and nominated locations. The Company is to contact the SM where incidents/breaches of security may cause ongoing threats. All reported incidents are to be entered

in a logbook, which is to be provided to the SM as requested.

g. **Reportable Incidents.** The following incidents as a minimum are to be reported to the SM immediately or as soon as practicable after the incident occurs:

- i. trespass or any attempted breaches of an Embassy, residential or other nominated location's perimeter
- ii. breaking and entering or any other illegal practices
- iii. any attempt by a staff member or visitor to bring dangerous material, including knives or firearms, onto Embassy grounds
- iv. any suspicious mail items
- v. compromise or potential compromise of security of the environment
- vi. suspicious individuals or occurrences, including those taking photographs of the Embassy, residence or other specified location
- vii. reported or identified theft
- viii. any incidents that require Police assistance
- ix. abuse of security staff, including any form of sexual harassment, by any person
- x. any instances where security or fire alarms were reported as being activated
- xi. vandalism
- xii. dangerous traffic practices and illegal parking
- xiii. drunken or illicit drug induced behaviour
- xiv. defective or missing security equipment
- xv. any activity/ incident that is not part of the regular day to day activities of personnel or Embassy functions
- xvi. the placement/ abandonment of any items /vehicles left unattended that do not belong to the Embassy
- xvii. any other incidents likely to endanger staff or visitors

h. **Maintenance.** The Company under the supervision of the SM is required to ensure that all installed and/or provided security/safety equipment on the site is in optimal working condition and that daily "opening up procedures" and serviceability checks are conducted prior to the Embassy opening to receive staff and visitors. All maintenance requirements are to be reported immediately to the SM who will ensure maintenance activities are completed. An audit process to monitor this maintenance schedule will be conducted.

i. **Guard Houses.** The Company under the supervision of the SM is required to ensure that all guard houses, guard boxes, sentry boxes and any

other guarding facility, including toilets, showers and meal areas, provided by the Embassy for use by guards, are maintained in a clean and tidy condition. The Company is to put in place procedures, approved by the SM, to ensure compliance.

j. **Security Appraisal.** The Company is required to provide to the SM a written security appraisal of each site. This may include security lighting issues, vegetation overgrowing the perimeter boundary, perimeter fence issues, etc. The frequency and format of this appraisal is to be as agreed between the SM and the Company.

k. **Supervisors.** The Company is to ensure that Supervisors have the capability to undertake the services. In particular the ability to supervise staff, liaise with senior Embassy officials, visitors and the general public while remaining sensitive to both cultural and threat environments.

l. **Contract Supervision.** The Company is to provide supervision of the contract with adequately trained and experienced security project management staff to ensure the Company meets the requirements of the Service and complies with the laws of the Hashemite Kingdom of Jordan. Regular contract meetings with the Security Manager are to be held. SOPs contain details of the schedule of reports that are required including their content and frequency of provision.

m. **Company Supplied Security Equipment.** Security Guards will require equipment to perform their assigned duties and the following items, as a minimum, shall be provided, maintained and or replaced by the Company, at the expense of the Company:

- i. Full uniform subject to the season (i.e. summer and winter) – as approved by DFAT and as described in para 5.1.f;
- ii. Effective wet weather protective clothing and umbrellas; and
- iii. Notebook and pen.

Note: All Company employees shall be required to be well groomed and to wear a clean uniform correctly (not partially) at all times whilst on duty.

The Company is to ensure that each site is provided with, at the expense of the Company:

- i. 5 x maglite style heavy duty torches, including batteries;
- ii. 3 x mobile phones;
- iii. log books as required;

n. **Security Screening.** Security Guards will be required to undertake a range of personnel screening activities. All Shift Supervisors and guards are to be competent in the use of the following equipment:

- i. hand-held metal detector;
- ii. walk-through metal detector;
- iii. X-ray machine and image interpretation;
- iv. explosive detection equipment;
- v. record keeping;
- vi. use of under vehicle search mirrors; and
- vii. internal and external vehicle search procedures.

4. Required Standards of Performance

4.1 The required standards of performance include:

a. **General:** The Services are to be provided to the satisfaction of DFAT and otherwise in accordance with good commercial practice, industry standards and relevant legislative requirements.

b. **Regulatory Requirements and Standards:** The provision of Services requires the Company to perform the Services strictly in accordance with all applicable Hashemite Kingdom of Jordan laws and standards. These include various Jordanian Government legislative requirements relating to hygiene, environmental, industrial and occupational health and safety requirements. The Company is required to have an acceptable quality assurance system in place for the purpose of ensuring that the Services are provided to the required standard. The Company is to perform the Services strictly in accordance with all appropriate standards.

c. **Avoidance of Disruption:** The Company must ensure that there is no disruption to the delivery of the Services. This obligation does not apply in the event of a *force majeure*.

d. **Performance Standards, Benchmarks and Penalties:** The delivery of the required Services must achieve a minimum benchmark (or standard) of performance against specified performance indicators. An appropriate range of performance indicators and performance benchmarks, and the means to be employed to measure performance against those benchmarks will be agreed between DFAT and the Company before contract signature. These will then form part of the contract. Where the Company fails to meet the minimum benchmarks of performance during any month, a Service rebate up to 5% of the applicable service charge for that month will apply. Exercising of contract extension options by the Embassy will be directly linked to performance.

e. **Performance Reviews:** Formal performance reviews will be undertaken against the agreed performance standards on a regular basis. Where minimum benchmarks of performance are specified for the required services and DFAT requires the Company to improve the conduct of the Service for the purpose of achieving these required benchmarks, The Company must achieve the required standard without delay and at no additional cost to DFAT.

f. **Standard Operating Procedures (SOP):** DFAT will provide SOP in English to the Company at the time of award of the contract. The Company has from that time until the commencement of the contract to ensure that all Supervisors and Guards have read and understood the SOP and have signed a declaration attesting to this.

5. Conditions Applying to the Delivery of the Services

5.1. The following conditions apply to the delivery of the Services:

a. **Privacy and Security.** The Company shall implement appropriate policies and procedures to protect the confidentiality and privacy of Embassy of Australia information.

The Company must ensure that its staff do not disclose to any person other than to an official representative of the Embassy of Australia any information or material gained directly or indirectly in the course of or in relation to, provision of the Services.

b. **Company Access.** The Company is not to utilise buildings or equipment at the site except in the course of providing the required Services, or where DFAT has provided prior approval.

c. **Provision of Furnished Equipment (FE).** The Company will be required to provide all consumables necessary for the provision of the required Services, with the exception of consumables for the itemiser which will be provided by the Embassy. The following Embassy FE will be provided:

- i. hand-held metal detectors;
- ii. walk-through metal detectors;
- iii. X-ray machine;
- iv. explosive trace detection equipment (Itemiser);
- v. under vehicle search mirrors;
- vi. radios including a base station and hand held units; and
- vii. office and kitchen equipment.

Where any FE becomes unusable or unfit for purpose as a result of inappropriate action or negligence by Company staff, it is the responsibility of the Company to repair or replace the FE at the expense of the Company. The

FE, even any replaced by the Company, remains the property of DFAT. The SM will arrange to replace or repair any FE that becomes unserviceable due to fair wear and tear. The Company is required to return all FE to DFAT at the conclusion of the contract.

d. **Use of FE.** The Company is not to use any FE provided by DFAT for any purpose other than the delivery of the required Services.

e. **Maintenance of FE.** The Company shall ensure that all FE used to perform the Services is in a state of good and safe repair. DFAT reserves the right to have equipment judged to be unsafe, not suitable or defective, taken out of service. The Company shall be responsible for supplying suitable replacement equipment immediately, if the equipment was rendered unsuitable by inappropriate use or negligence by Company staff.

f. **Dress and Appearance.** Supervisors and guards are to be appropriately dressed in uniform at all times while on duty. Personnel will on request, be dressed in neat casual wear in order to maintain a discreet presence should that be requested by the SM. Whilst on duty at any Embassy location all security guards are to wear a name badge as approved by the SM. Uniforms must include a prominent Australian Embassy Security Team logo which will be provided by DFAT.

Uniforms must be consistent and appropriate for the weather and tasks being undertaken and be of a quality approved by DFAT.

Clean, complete uniforms shall be worn at all times, and the appearance of the uniforms must be acceptable to the SM. The Supervisors and guards shall be required to dress neatly and be appropriately groomed, comparable with DFAT's local staff appearance;

No Company employees shall wear hats, caps, sweatshirts, T-shirts, sports teams clothing or other garments that depict such things as cartoon characters, professional sports team logos, social comments, "catch phrases", etc.

No Company employees shall wear apparel that has logos or advertising. Ornaments, such as company lapel-pins or badges, are limited to one (1) only and may NOT be of a political or personal nature.

g. **Personnel Conduct, Behaviour and Performance.** The Company is responsible for the conduct of all its employees. A copy of the Australian Embassy Locally Engaged Code of Conduct will be provided to the Company on contract signature. The Company are to ensure that all their staff are aware of the Code of Conduct and comply with it. The Company is to ensure that its personnel are appropriately pleasant and courteous in the performance of their duties, are adequately trained and/or have demonstrable relevant qualifications

and experience in their duties. Should any Company personnel fail to meet the required standards of conduct and behaviour, the Company, in consultation with DFAT, is to immediately replace such personnel without disruption to the Service standards.

In performing their duties the Company must ensure that their employees:

- comply with the performance standards for the services set out in section 3.
- comply with applicable law, applicable Australian standards (except to the extent inconsistent with any international standards referred to in section 3) and relevant professional standards;
- exercise due care, diligence and skill;
- avoid any conflict of interest;
- act in a timely and professional manner;
- comply with the instructions of the HOM, PSO, RSA, SAO and SM; and
- Comply with Standard Operating Procedures

Where the performance of work requires the presence of the Company personnel on Embassy premises, the Company shall ensure that its personnel shall comply with the policy of the Australian Government which prohibits smoking on any government premises, except in designated smoking areas. The Company and its employees shall adhere to the NO SMOKING policy in all Embassy buildings and places where they can be seen by the public.

h. Transition and Training Requirements. The Company is required to ensure that all Supervisors and Guards to be employed on the DFAT contract are trained to a competent level in general guarding duties including patrolling and security awareness, public interaction, conflict de-escalation, personnel screening, vehicle search, the use of DFAT's security detector equipment, basic First Aid and basic fire-fighting skills prior to commencement of the Contract. Additional training may be provided by DFAT at no cost to the Company. Labour (attendee) costs for DFAT initiated additional security training is to be negotiated between the Company and DFAT. Profiles of each guard are to be provided to DFAT prior to them being interviewed as described in 2.1.i.

The Company is to provide certified refresher training to Supervisors and guards employed by DFAT on a regular/as needed basis but as a minimum 4 times a year. All related certification and proof of training must be provided to the SM at the end of each refresher training program.

DFAT reserves the right to attend initial and refresher training sessions conducted by the Company for its security staff employed on the DFAT contract.

Company employees shall be of good character and be without criminal conviction. They must conduct themselves in a professional and business-like manner at all times.

DFAT reserves the right to approve or reject the appointment of any nominate personnel.

i. **Embassy of Australia Familiarisation.** The Company is to ensure that all its personnel are thoroughly familiar with the Embassy of Australia's administrative procedures at the relevant sites, and have acquainted themselves with key personnel with whom the Company and its personnel will need to work.

j. **Insurance.** The Company is required to hold and maintain appropriate Product and Public Liability and Workers Compensation insurance, covering the Services. Company registration details are to be provided on request.

k. **Co-ordination.** The Company will be required to participate in regular informal and formal co-ordination meetings as they apply to the delivery of the required Services and the meeting of Company associated contractual obligations, at no cost to DFAT. As a minimum, these meetings will be held monthly at the Embassy of Australia unless otherwise determined DFAT.

l. **Problem Resolution Procedures.** The Company is to establish problem resolution procedures to address problems which are unresolved within an agreed time, to be escalated within the Company organisation, until the problem is resolved to the satisfaction of DFAT.

m. **Advertisements.** The Company must obtain DFAT's prior written approval of any public advertisements required for the performance of the Services. DFAT must promptly notify the Company of its approval or any required changes.

SCHEDULE 2 – Pricing Schedule

1. **TOTAL AMOUNT PAYABLE**

1.1. The maximum amount payable by DFAT to the Contractor for the provision of the Services shall not exceed the sum of **Jordanian Dinar [insert amount]**. DFAT shall not be liable for any Costs or expenditure incurred by the Contractor in excess of this amount.

2. **PRICING SCHEDULE**

2.1. DFAT shall reimburse the Contractor monthly in arrears, at actual cost up to a maximum of **Jordanian Dinar [insert amount]** in accordance with the following pricing schedule:

Item	Quantity	Unit Price per month	Total Price per month
Shift Supervisors			
Guards			
Equipment			
Training			
Insurance			
Management Fees and Profit			
Etc			
Total		<i>[Insert]</i>	<i>[insert quote price]</i>

SCHEDULE 3 - Deed of Confidentiality

THIS DEED POLL is made on the

day of

[]

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

BY [Insert name and address of individual who will have access to Confidential Information] (the 'Recipient').

RECITALS

- A. DFAT and **Contractor's Name** (the 'Contractor') have entered into a Contract for the purpose of the provision of Services for [insert Contract title] ('the Activity').
- B. The Recipient has been engaged by the Contractor to work on the Activity.
- C. The Recipient, in carrying out that work, be given access to Confidential Information.
- D. DFAT requires the Recipient to enter into this Deed in relation to use of Confidential Information.

THE RECIPIENT DECLARES AS FOLLOWS:

1 INTERPRETATION

In this Deed, unless the contrary intention appears:

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

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

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

2 CONFIDENTIAL INFORMATION

2.1 The Recipient acknowledges and agrees that:

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

3 RESTRICTIONS ON USE

3.1 The Recipient must:

- (a) keep the Confidential Information, and all documents containing, or referring to, any Confidential Information, under effective control of the Recipient;
- (b) not use or reproduce any document containing, or referring to, any Confidential Information, nor allow any other person to use or reproduce any such document;
- (c) take all reasonable steps to ensure that Confidential Information, and all documents containing, or referring to, any Confidential Information, are protected at all times from any unauthorised use, disclosure or access and immediately notify the Commonwealth if the Recipient becomes aware of any unauthorised access to, or use or disclosure of, any Confidential Information;
- (d) if required at any time by the Commonwealth to do so, deliver up to the Commonwealth, or destroy, all Confidential Information, including all documents containing, or referring to, any Confidential Information, in the possession, custody or control of the Recipient; and
- (e) if required by the Commonwealth:
 - (i) permit the Commonwealth reasonable access to the Recipient's premises and information management systems to ensure or check compliance with this undertaking; and
 - (ii) provide to the Commonwealth a statutory declaration of an officer of the Recipient stating that **Clause 3.1** has been complied with.

4 PERSONAL INFORMATION

- 4.1 The Recipient agrees, with respect to all Personal Information acquired by it during the performance of the Contract, to abide by the provisions of the *Privacy Act 1988* as if the Recipient were an 'Agency' as defined by that Act.

5. SURVIVAL OF OBLIGATIONS

5.1 The obligations in this Deed are perpetual.

EXECUTED as a deed poll.

SIGNED, by the Recipient in the presence)
of)

.....

Signature of Recipient:

.....

Name of Recipient
(Print)

.....

Date

.....

Signature of witness

.....

Name of witness
(Print)

.....

Date