

PART C – Program specific terms and conditions

Program: Indigenous Protected Areas

23. Definitions

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

Advisory Committee	the committee described in clause 25.
Asset	any item of tangible property purchased or leased either wholly or in part with the use of the Funds with a value at the time of acquisition of \$10,000 or more, excluding GST.
Commercial Work	work done outside of this Agreement using Assets or items purchased or leased using the Funds.
Commercial Work Income	income the Recipient has earned from Commercial Work.
Department	the Commonwealth Department of Sustainability, Environment, Water, Population and Communities or any other agency that administers this Agreement from time to time.
Depreciation	has the same meaning as it has in Australian Accounting Standard AASB 116 <i>Property, Plant and Equipment</i> .
Dispose	to sell, mortgage or encumber, lease or sublease, license or sublicense, assign or otherwise transfer or give up ownership or the right to occupy or use, or to enter into an agreement to do any of the preceding acts.
MERI Strategy	the <i>Monitoring, Evaluation, Reporting and Improvement Strategy – Caring for our Country and the Biodiversity Fund</i> available at: http://www.nrm.gov.au/funding/meri/index.html .
Program	the Indigenous Protected Areas Program.
Program Objectives	are to support: <ol style="list-style-type: none"> (a) Indigenous land owners to develop, dedicate and manage Indigenous Protected Areas on their land as part of Australia's network of protected areas; (b) Indigenous interests to develop partnerships in conserving Australia's network of protected areas; and (c) the integration of Indigenous ecological and cultural knowledge with contemporary protected area management practices, to deliver enduring environmental, cultural, social and economic outcomes.

Project Budget	the annual budget specified in the Project Plan detailing how the Recipient will spend the Funds as amended from time to time in accordance with clause 24.2(d).
Project Generated Income	any income earned or generated by the Recipient from its use of the Funds, including interest earned from the investment of the Funds, but does not include funding from other government grants or Commercial Work income.
Project Manager	The Recipient officer responsible for the implementation of the project.
Project Outcomes	the Project outcomes specified in Part A.
Project Plan	the Project plan detailing how the Recipient will conduct and complete the Project in accordance with this Agreement and the MERI Strategy, including timeframes for completion of various stages of the Project as amended from time to time in accordance with clause 24.1(e).
Site	the site(s) where the Project will be undertaken and that is identified in the Agreement Details in Part A.
Vehicle	any carriage or conveyance for travel on land or air, including a car, bus, motor bike, quad bike, plane or helicopter.
Vessel	any craft for travelling on water.

24. Project Plan and Project Budget

24.1 Project Plan

- (a) Each year of the Project and within the timeframe specified in the Milestone Schedule, the Recipient must submit a draft Project Plan for the relevant year for the Department's approval.
- (b) The draft Project Plan must:
 - (i) be substantially in the form of the applicable template provided by the Department (if any);
 - (ii) detail the activities, linked to Project Outcomes and Project Activities, to be undertaken at each stage of the Project;
 - (iii) detail how the Recipient will deliver the Project in accordance with this Agreement;
 - (iv) be consistent with the Plan of Management (if any);
 - (v) be consistent with all timeframes arising under this Agreement and identify how they will be met; and
 - (vi) comply with the MERI Strategy.
- (c) Unless the Recipient is otherwise notified by the Department, the Department will reject or approve the draft Project Plan within the time period specified in the Milestone Schedule. Where the draft Project Plan is rejected, the Recipient must continue to submit a draft Project Plan, including any necessary amendments until the Department approves a draft Project Plan.

- (d) Once a draft Project Plan is approved by the Department, it will become the final Project Plan for the relevant year (subject to any agreed changes in accordance with clause 24.1(e)).
- (e) The Recipient must perform the Project in accordance with the Project Plan and must not make any amendments to the Project Plan, unless approved in writing by the Department.

24.2 Project Budget

- (a) Each year of the Project and within the timeframe specified in the Milestone Schedule, the Recipient must submit, as part of the draft Project Plan, a draft Project Budget for the relevant year for the Department's approval.
- (b) Unless the Recipient is otherwise notified by the Department, the Department will reject or approve the draft Project Budget within 40 Business Days of submission by the Recipient under clause 24.2(a). Where the draft Project Budget is rejected, the Recipient must submit a revised Project Budget, including any necessary amendments, within 15 Business Days of the Department's rejection of the draft Project Budget.
- (c) Once a draft Project Budget is approved by the Department, it will become the final Project Budget for the relevant financial year (subject to any agreed changes in accordance with clause 24.2(d) or 24.2(e)).
- (d) The Recipient must:
 - (i) perform the Project; and
 - (ii) only spend the Funds,
 in accordance with the Project Budget, unless approved in writing by the Department.
- (e) The Recipient must spend the Funds allocated under an approved Project Budget within the relevant financial year, unless otherwise agreed in writing by the Department.
- (f) The Recipient may only transfer the Funds between categories of expenditure items within the Project Budget, without the consent of the Department, if such transfer does not exceed:
 - (i) 10 per cent of the overall Project Budget for a financial year; or
 - (ii) \$100,000, if the amount in clause 24.2(f)(i) is greater than \$100,000.
- (g) The Recipient must not use more than 15 per cent (or up to 20 per cent where approved by the Department in writing) of the Funds for Project administration.

24.3 Approval or amendments of Project Plan or Project Budget

For the avoidance of doubt, the Department's approval of the annual Project Plan or Project Budget or any amendment to the Project Plan or Project Budget does not in any way limit the Recipient's obligations under this Agreement.

25. Advisory Committee

- (a) The Recipient must establish an Advisory Committee to be comprised of:
 - (i) the Project Manager;
 - (ii) the Recipient's Chairman or the Chairman's nominee; and
 - (iii) representatives from:
 - (A) the Department (such as the Department Representative);

- (B) the relevant state or territory Conservation Agency; and
 - (C) other organisations with an interest in the Project who may be invited by the Advisory Committee
- (b) The Advisory Committee will meet annually, or at other times agreed by the parties, to review the progress of the Project.
- (c) The Advisory Committee shall have no binding authority to make decisions but shall be a forum for constructive discussion and guidance about the progress of the Project with each representative contributing to the discussions their particular expertise.

26. Management of Funds

- (a) The Recipient must:
 - (i) ensure that the Funds are held in an account in the Recipient's name and which the Recipient solely controls, with a deposit-taking institution authorised under the *Banking Act 1959* (Cth) to carry on banking business in Australia; and
 - (ii) identify the receipt and expenditure of the Funds separately and any interest accrued on the Funds within the Recipient's accounts and records so that the Funds are identifiable at all times.
- (b) Notwithstanding clause 26(a)(i), the Department may, following the Commencement Date and by written notice, require the Recipient to ensure that the account referred to in clause 26(a)(i) is:
 - (i) established solely for the purposes of this Agreement; and
 - (ii) separate from the Recipient's other operational accounts.

27. Appointment of subcontractors

- (a) The Recipient must not enter into a subcontract in relation to the Project without the Department's prior written approval. In giving approval, the Department may do so on such terms and conditions as the Department thinks fit.
- (b) For the avoidance of doubt, the Department may give its prior written approval for categories of work for which the Recipient may engage subcontractors, as well as prior written approval for specific tasks to be carried out by subcontractors.
- (c) Any subcontractors approved by the Department at the Commencement Date, and any terms and conditions relating to their engagement, are identified in Part A.
- (d) Despite any approval given by the Department, the Recipient is responsible for the performance of the Recipient's responsibilities under this Agreement regardless of whether the Recipient has subcontracted any of its obligations.
- (e) In respect of all subcontracts entered into for the Project, the Recipient must ensure that:
 - (i) the subcontract facilitates compliance by the Recipient with its obligations under this Agreement;
 - (ii) the subcontract will not conflict with or detract from the rights and entitlements of the Department under this Agreement;

- (iii) the other party to the subcontract is financially viable, has the necessary relevant expertise and the appropriate types and amounts of insurance to perform the work in relation to the Project;
- (iv) the subcontract contains all the relevant terms of this Agreement including those relating to warranties, subcontracting, access to premises and records, intellectual property, privacy, confidentiality, indemnities and termination and in particular that the Recipient has or will secure itself a right to terminate the subcontract on terms no less favourable than those accorded to the Department by clause 19, in the event of this Agreement being terminated; and
- (v) the other party to the subcontract acknowledges that it may be considered a 'Commonwealth service provider' for the purposes of the *Ombudsman Act 1976* (Cth) and subject to investigation by the Ombudsman under that Act, and that the Department will not be liable for the cost of any such investigation by the Ombudsman in connection with the subject matter of the subcontract or the subject matter of this Agreement.
- (f) The Recipient must not enter into a subcontract under this Agreement with a subcontractor that is currently named as not complying with the *Workplace Gender Equality Act 2012* (Cth).
- (g) If requested, the Recipient must provide to the Department, within 30 days, a copy of any contract relating to the Project and / or any Material relating to the engagement of the subcontractor.

28. Assets and Project Generated Income

28.1 Purchasing or leasing of Assets

- (a) The Recipient must not use the Funds towards the purchase or lease of Assets unless:
 - (i) the Asset is identified in the Project Budget; or
 - (ii) the Recipient has obtained the prior written approval of the Department, subject to any conditions the Department may, in its absolute discretion, impose.
- (b) An item which is not an Asset but is purchased by the Recipient using the Funds must only be purchased or leased if the Recipient can show that the item is to be used in undertaking the Project.
- (c) An Asset or an item purchased or leased using Funds must be purchased or leased within the financial year for which those Funds have been approved.
- (d) The Recipient must not use the Funds to account for any depreciation in the value of Assets or items purchased or leased using Funds, unless otherwise agreed in writing by the Department.

28.2 Use of Assets

- (a) The Recipient must not:
 - (i) use Assets for any purpose other than the performance of the Project or Commercial Work approved under clause 28.7;
 - (ii) Dispose of, encumber, deal or use any Asset other than in accordance with this clause 28,
 unless it has obtained the prior written approval of the Department, which will not be unreasonably withheld.

- (b) If the Recipient uses an Asset for a purpose inconsistent with the purposes of the Project, the Department may, in its absolute discretion, suspend or reduce payment of the Funds or an instalment of the Funds.

28.3 Use of Vehicles and Vessels

- (a) The Recipient must develop a policy for the use of Vehicles and Vessels and provide that policy to the Department together with the draft Project Plan.
- (b) The Recipient must ensure that a Vehicle or Vessel, which is an Asset or is purchased or leased using the Funds:
 - (i) is registered for its intended purpose with the relevant State or Territory authority;
 - (ii) is operated by a person holding an appropriate licence to operate that Vehicle or Vessel; and
 - (iii) is appropriate and meets all the relevant safety standards and regulatory requirements for the purpose for which it is to be used.

28.4 Obligations in relation to Assets

The Recipient must:

- (a) maintain all Assets in good working order;
- (b) insure any Asset for its full replacement value;
- (c) be fully responsible for, and bear all risks arising in relation to, the use or Disposal of any Asset;
- (d) if required by Law, maintain registration and licensing of all Assets;
- (e) maintain a register of all Assets, recording the date of purchase or lease, the purchase or lease price, Asset description, Asset location, the proportion of the Funds used to create or acquire the Asset, the value of the Asset and (where approved under clause 28.2(a)(ii)) details of Disposal of the Asset, including the sale price; and
- (f) as and when requested, provide copies of the register of Assets to the Department.

28.5 Disposal of Assets

- (a) The Recipient must obtain prior written approval from the Department before Disposing of an Asset.
- (b) If, at the time of the Disposal, the Asset has not been fully Depreciated the Recipient must, at the option of the Department:
 - (i) pay to the Department within 20 Business Days of the date of the Disposal, an amount equal to the proportion of the value of the Asset following Depreciation that is equivalent to the proportion of the purchase price of the Asset that was funded from the Funds;
 - (ii) pay to the Department within 20 Business Days of the date of the Disposal, the proceeds of the Disposal, less an amount equal to the sum of the Recipient's proportionate contribution to the purchase price of the Asset and the Recipient's reasonable costs of Disposal of the Asset; or
 - (iii) use the amount payable to the Department under clause 28.5(b)(i) or (ii) (as the case may be) for a purpose (as is determined by the Department), and in accordance with conditions, approved in writing by the Department.

- (c) Within 40 Business Days after the end of the Project Period or the earlier termination of the Agreement, the Recipient must provide to the Department a proposal setting out which one of the three following ways the Recipient would like each Asset to be dealt with:
 - (i) the Recipient will Dispose of the Asset at fair market value and comply with clause 28.5(b);
 - (ii) the Recipient will pay to the Department, on or before a date to be directed by the Department, an amount equal to the proportion of the value of the Asset following Depreciation that is equivalent to the proportion of the purchase price of the Asset that was funded from the Funds; or
 - (iii) the Recipient will continue to use the Asset for purposes and on conditions to be reasonably directed by the Department.
- (d) The Department will consider the proposal submitted by the Recipient under clause 28.5(c) and direct the Recipient as to the way in which the Recipient must deal with each Asset.
- (e) The Recipient must fully implement the Department's directions under clause 28.5(c) to the satisfaction of the Department within 40 Business Days of the date of the direction.

28.6 Interest

If the Recipient fails to make a payment or use the amount as required by clauses 28.5(b)(i), (ii) or (iii) or clause 28.5(c)(ii) (as the case may be):

- (a) the Recipient must pay the Department Interest on the relevant amount from the date it was due, for the period it remains unpaid; and
- (b) the relevant amount, and Interest owed under clause 28.6(a) will be recoverable by the Department as a debt due from the Recipient.

28.7 Commercial Work

- (a) The Recipient must obtain prior written approval from the Department before engaging in Commercial Work.
- (b) The Department will not give its approval for Commercial Work unless the Recipient has demonstrated, to the Department's satisfaction, that:
 - (i) the Commercial Work is fully costed and would not be subsidised by the Funds;
 - (ii) Assets or items purchased or leased with Funds to be used for the Commercial Work are to be used in the manner set out in clause 28.3; and
 - (iii) the Commercial Work will not interfere with the Recipient's performance of the Project.

28.8 Project Generated Income

- (a) Subject to clause 28.8(b), the Recipient must treat Project Generated Income in accordance with the Department's written direction.
- (b) Unless otherwise directed by the Department in writing, the Recipient must apply any interest earned from the investment of the Funds to Project expenses or costs. The Recipient acknowledges that, the Department may, at its absolute discretion:
 - (i) authorise the use of Project Generated Income to maximise Project Outcomes;

- (ii) require the return of the interest amount to the Department; or
- (iii) offset future payment(s) of Funds against the interest amount.

29. Acknowledgement and publicity

29.1 Acknowledgement

The Recipient must acknowledge the provision of the Funds by the Department:

- (a) at a minimum, in the following way:
“The Ninghan IPA is supported through funding from the Australian Government’s Indigenous Protected Areas Program.”
- (b) in any other form required by the Department.

29.2 Announcement documentation

- (a) The Recipient must submit any Material containing the required acknowledgment specified in clause 29.1 to the Department 10 Business Days prior to publication or announcement of the event.
- (b) If the Department requires amendments to a proposed form of words of a publication, announcement or any Material, the Recipient must make the required amendment before allowing the words to be published or announced.
- (c) Notwithstanding the Department’s review or proposal of a revised form of words in accordance with this clause, the Recipient will at all times remain responsible for the content and accuracy of published or announced Material.
- (d) The Department reserves the right to require any Material published or announced in breach of this clause 29.2 be fully withdrawn or retracted at the Recipient’s cost.
- (e) The Recipient must submit a final copy of any published Material relating to the Project to the Department.

30. Reports

30.1 Required reports

The Recipient must provide the following reports:

- (a) reporting of Indigenous participation and employment, as specified in clause 30.2;
- (b) mid-year reports;
- (c) annual reports;
- (d) Financial Information as specified in clause 30.5 and
- (e) a final report, if required.

30.2 Reporting of Indigenous participation and employment

- (a) Where relevant, the Recipient must report on the number of Indigenous people either directly employed or subcontracted, and / or engaged as volunteers in the Project.
- (b) The Recipient must report on Indigenous participation and employment substantially in the form of the template provided by the Department in each mid-year and annual report.

30.3 Mid-year reports

- (a) The Recipient must provide the Department with mid-year reports, substantially in the form of the template provided by the Department.
- (b) The Recipient must provide each mid-year report in accordance with the timeframe specified in the Milestone Schedule.
- (c) The reporting period for each mid-year report is the six months from 1 July to 31 December of the previous calendar year.
- (d) The mid-year report must include but need not be limited to, the following information for each reporting period:
 - (i) Project performance information including:
 - (A) performance against the Project Outcomes;
 - (B) details of work undertaken and tasks (including Milestones) completed in the reporting period;
 - (C) details of progress against the Project Plan, including monitoring, evaluation and reporting activities specified in the Project Plan; and
 - (D) a discussion and statement as to whether the timeframes, Project Outcomes and Milestones for the Project (and specifically during the reporting period) are being met and an explanation of any delays that have occurred, including the reasons for those delays and the action the Recipient proposes to take to address the delay and the expected effects (if any) the delay will have on the Project (including subsequent Milestones and the overall completion of the Project); and
 - (ii) Financial Information including:
 - (A) details of expenditure of the Funds in accordance with the Project Budget;
 - (B) the balance of the Funds, including any Project Generated Income; and
 - (C) a statement of Assets acquired, produced, written off or Disposed of during the reporting period; and
 - (iii) any other information requested by the Department from time to time.

30.4 Annual reports

- (a) The Recipient must prepare an annual report at the end of each financial year/ or at the completion of the project (in case it gets terminated or project slips) in which the Recipient has received, expended or retained Funds pursuant to this Agreement.
- (b) When preparing the annual report the Recipient must engage, at its cost, a Qualified Accountant to Audit the Financial Information of the Recipient and to prepare an Auditor's Report.
- (c) The Recipient must provide the Department with an annual report by 11 August each year, substantially in the form of the template provided by the Department.
- (d) The reporting period for each annual report is 1 July to 30 June of the previous financial year.
- (e) The annual report must include but need not be limited to, the following Project performance information for each reporting period covering the:

- (i) performance against the Project Outcomes;
- (ii) a description of actual performance against the Milestones;
- (iii) a detailed description of work undertaken;
- (iv) details of progress against the Project Plan, including monitoring, evaluation and reporting activities specified in the Project Plan;
- (v) a discussion and statement as to whether the timeframes, Project Outcomes and Milestones for the Project (and specifically during the report period) are being met and an explanation of any delays that have occurred, including the reasons for those delays and the action the Recipient proposes to take to address the delay and the expected effects (if any) the delay will have on the Project (including subsequent Milestones and the overall completion of the Project);
- (vi) details of any other monetary contributions the Recipient has received for the Project;
- (vii) details of any in-kind contributions the Recipient has received for the Project;
- (viii) results of any evaluation of the Project conducted during the reporting period;
- (ix) a financial statement setting out the receipt and expenditure of the Funds; and
- (x) any other information requested by the Department from time to time.

30.5 Financial Information

- (a) Preparation of financial reports requires the Recipient to engage, at its cost, a Qualified Accountant to Audit the Financial Information of the Recipient and to prepare an Auditor's Report.
- (b) Unless otherwise explicitly approved by the Department in writing, within 60 Business Days of:
 - (i) the end of each financial year in which the Recipient has received, expended or retained Funds pursuant to this Agreement; and
 - (ii) the expiry of the Project Period, completion of the Project or the early termination of this Agreement, whichever is the earlier;

the Recipient must provide to the Department, in the form of the template provided by the Department, if any:

- (iii) Financial Information including:
 - (A) details of expenditure of the Funds in accordance with the Project Budget;
 - (B) a statement of Assets acquired, produced, written off or Disposed of during the reporting period;
- (iv) a certificate signed by a representative of the Recipient with the authority to make representations on behalf of the Recipient stating whether:
 - (A) the Funds have been used for the purpose for which they were provided; and
 - (B) all terms and conditions of the Agreement were complied with;

- (v) a report on the amounts of Project Generated Income earned, the uses made of Project Generated Income, and any remaining amounts of, Project Generated Income for the relevant financial year;
- (vi) a report on the amounts of Commercial Work Income, the uses made of Commercial Work Income and any remaining amounts of Commercial Work Income for the relevant financial year; and
- (vii) the Auditor's Report on the Financial Information.

30.6 Final report

- (a) Within 40 Business Days of the end of the Project Period or the earlier termination of this Agreement, the Recipient must provide a final report covering the period since the Recipient provided its last annual report,
- (b) The final report must include, but need not be limited to, the following:
 - (i) a description of the Recipient's activities;
 - (ii) details of progress against the Project Plan; and
 - (iii) a discussion of the benefits and outcomes of the Project;
- (c) If requested by the Department, the Recipient must also include in the final report:
 - (i) a summary of the Recipient's performance over the Project Period against the Project Outcomes;
 - (ii) a description of the Recipient's activities since the end of the reporting period for the latest mid-year report or annual report, whichever was provided at the later date;
 - (iii) details of progress against the Project Plan, including monitoring, evaluation and reporting activities specified in the Project Plan;
 - (iv) a discussion of the benefits and outcomes of the Project as a whole;
 - (v) a summary of all of the Recipient's activities during the entire Project Period; and
 - (vi) an evaluation of the Project against the Project Outcomes, including discussion of how successful the Project was in achieving the Program's Objectives.

31. Compliance with MERI Strategy

- (a) For the avoidance of doubt, the Project Plan must comply with the MERI Strategy and must incorporate any applicable MERI milestones or deliverables.
- (b) For the avoidance of doubt, any reports required under this Agreement must comply with the MERI Strategy and must incorporate any applicable MERI milestones or deliverables.

32. Working with vulnerable persons

32.1 Application of this clause

This clause 32 applies if the Project, or any part of the Project, involves working with or contact with Vulnerable Persons.

32.2 Definitions

In this clause 32:

- (a) **Child** means an individual under the age of 18;
- (b) **Criminal or Court Record** means any record of any Other Offence;
- (c) **Other Offence** means a conviction, finding of guilt, on-the-spot fine, or other court order relating to:
 - (i) an apprehended violence or protection order made against the person;
 - (ii) one or more traffic offences involving speeding more than 30 kilometres over the speed limit, injury to a person or damage to property;
 - (iii) a crime or offence involving the consumption, dealing in, possession or handling of alcohol, a prohibited drug, narcotic or other prohibited substance;
 - (iv) a crime or offence involving violence against or injury to a person (other than a crime or offence involving the death of person); or
 - (v) a minor crime or offence involving dishonesty other than those crimes and offences referred to in paragraph (g) of this definition;
- (d) **Person** means each of the Recipient's officers, employees, contractors and volunteers;
- (e) **Police Check** means a formal inquiry made to the relevant police authority in each Australian State or Territory where the Recipient knows the person has resided, designed to obtain details of a person's criminal conviction or a finding of guilt in all places (within and outside Australia);
- (f) **Serious Record** means a conviction or any finding of guilt for a Serious Offence;
- (g) **Serious Offence** means:
 - (i) a crime or offence involving the death of a person;
 - (ii) a sex-related offence or a crime, including sexual assault (whether against an adult or Child), Child pornography, or any indecent act involving a Child;
 - (iii) a crime or offence involving dishonesty that is not minor; or
 - (iv) fraud, money laundering, insider dealing or any other financial offence or crime, including those under legislation relating to companies, banking, insurance or other financial services; and
- (h) **Vulnerable Person** means:
 - (i) a Child; or
 - (ii) an individual aged 18 years and above who is or may be unable to take care of themselves, or is unable to protect themselves against harm or exploitation by reason of age, illness, trauma or disability, or any other reason.

32.3 Recipient to conduct Police Check

Before engaging or deploying any person (whether as an officer, employee, contractor, or volunteer) in relation to any part of the Project, the Recipient must:

- (a) conduct a Police Check for that person;

- (b) confirm that no Commonwealth, State or Territory law prohibits that person from being engaged in a capacity where they may have contact with Vulnerable Persons; and
- (c) comply with all other legal requirements of the place where the Project, or part of the Project, is being conducted in relation to engaging or deploying persons in a capacity where they may have contact with Vulnerable Persons.

32.4 Recipient to conduct risk assessment

- (a) If a Police Check indicates that a person has a Serious Record, or a Criminal or Court Record, the Recipient must not engage, deploy or redeploy the person until the Recipient has conducted and documented a risk assessment of that person.
- (b) The Recipient must, within 24 hours of becoming aware of a person being charged or convicted of any Serious Offence or Other Offence, conduct and document a risk assessment in accordance with clause 32.5 to determine whether to allow that person to continue performing the Project, or any part of the Project.
- (c) The Recipient must document the actions it will take as a result of conducting the risk assessment.
- (d) The Recipient is responsible for conducting any risk assessment, assessing its outcome and deciding to engage, deploy or redeploy a person with a Serious Record, or a Criminal or Court Record, to work on the Project, or any part of the Project.

32.5 Requirements regarding conduct of risk assessment

In undertaking a risk assessment under clause 32.4, the Recipient must take into account the following factors:

- (a) whether the person's Serious Record, Criminal or Court Record is directly relevant to the role the person will or is likely to perform in relation to the Project, or any part of the Project;
- (b) the length of time that has passed since the person's conviction and the person's record since that time;
- (c) the nature of the offence pertaining to the Serious Record or Criminal or Court Record and the circumstances in which it occurred;
- (d) whether the offence involved Vulnerable Persons;
- (e) the nature of the Project and the circumstances in which the person will or is likely to have contact with Vulnerable Persons;
- (f) the particular role the person is proposing to undertake or is currently undertaking in relation to the Project and whether the fact the person has a Serious Record or Criminal or Court Record, is reasonably likely to impair the person's ability to perform or continue to perform the inherent requirements of that role; and
- (g) the person's suitability based on their merit, experience and references, to perform the role they are proposed to undertake or are currently undertaking in relation to the Project or any part of the Project.

32.6 Recipient's obligations about the engagement and deployment of certain persons

- (a) After taking into account the factors set out in clause 32.5, the Recipient must determine whether it is reasonably necessary to:
 - (i) engage, deploy or redeploy the person in relation to the Project or any part of the Project;
 - (ii) remove the person from working in any position or acting in any capacity in relation to the Project or any part of the Project which involves working or having contact with Vulnerable Persons;
 - (iii) make particular arrangements or impose conditions under which the person's role in relation to the Project or any part of the Project and, where relevant, contact with Vulnerable Persons is to occur; or
 - (iv) take steps to protect the physical, psychological or emotional wellbeing of the Vulnerable Persons to whom the Project relates.
- (b) The Recipient must, on request, promptly provide the Department with evidence that the Recipient has complied with the requirements of this clause 32.6.

32.7 Subcontractors

The Recipient must ensure that any subcontract entered into by it in relation to the Project places the same obligations on the subcontractor as this clause 30.6 places on the Recipient.

33. Engagement of children of compulsory school age

The Recipient and its subcontractors (if any) must not engage, or cause to be engaged, a child of compulsory school age to participate in the Project during school hours unless that engagement is for an activity that has been sanctioned by the school attended by that child.

34. Ongoing obligations under existing contractual arrangements with the Department

Notwithstanding clause 21.9 of this Agreement, nothing in this Agreement overrides or supersedes any requirement or obligation that the Recipient has under any other agreement with the Department, including any obligation to provide an audited financial acquittal report under an existing funding agreement.