

## **Subcontractor Agreement**

*Between*

**Cardno Emerging Markets (UK) Ltd**

**UK Registration No: 1445342**

*and*

**[Subcontractor NAME]**

**Registration No: [Subcontractor Reg No]**

**Agreement Number: [SCxxxxx]**

for

**[Project Title]**

**CIGUxxx**

## Table of Contents

<b>Agreement Details .....</b>	<b>ii</b>
<b>Standard Terms and Conditions .....</b>	<b>1</b>
1. The Parties .....	1
2. The Agreement .....	1
3. The Assignment .....	1
4. Basis of Payment .....	1
5. Taxation and Income Tax .....	2
6. Medical, Dental, Evacuation and Travel Insurance .....	2
7. Expenses and Travel .....	2
8. Resources and Computer Viruses .....	2
9. Subcontracting .....	2
10. Counter-Terrorism .....	3
11. Contractor Personnel .....	3
12. Specified Personnel .....	3
13. Liaising and Reporting .....	4
14. Intellectual Property .....	4
15. Intellectual Property Rights Indemnity .....	4
16. Moral Rights .....	4
17. Security Requirements .....	4
18. Confidentiality .....	4
19. Publicity .....	4
20. Privacy .....	5
21. Prevention of Fraud and Bribery .....	5
22. Child Protection .....	5
23. Conflict of Interest .....	6
24. Waiver .....	6
25. Indemnity .....	6
26. Negation of Partnership, Employment and Agency .....	6
27. Variations to the Agreement .....	6
28. Suspension of the Agreement .....	6
29. Suspension or Termination without default of the Contractor .....	7
30. Termination for Contractor Default .....	7
31. Termination for Convenience .....	8
32. Applicable Law .....	8
33. Continuing Obligations .....	8
34. Severability .....	8
35. Resolution of Disputes .....	8
36. Specific Obligations .....	8
<b>Schedule 1 Project Specific / Donor Mandated Conditions .....</b>	<b>10</b>
<b>Schedule 2 Definitions and Interpretations .....</b>	<b>15</b>
<b>Schedule 3 Terms of Reference .....</b>	<b>17</b>
<b>Schedule 4 Basis of Payment .....</b>	<b>18</b>

## Agreement Details

Item No.	Description
1. Agreement Number	[SCxxxxx]
2. Lead Project Name (Head Contract Title)	[Subcontractor NAME]
3. Cardno Lead Project Reference Number	EMUK10791A
4. Project Title	[Project Title]
5. Client	UK Department for International Development (DFID)
6. Donor	UK Department for International Development (DFID)
7. Contractor	[Subcontractor NAME] Registration No: [Subcontractor Reg No]
8. Specified Contractor Personnel/experts	Insert nominated experts Please refer to Schedule 4 of this Agreement
9. Contractor's Contact Details	Contact Name, Position Contact Tel Contact Email Contact address(registered business address)
10. Project Partner(s)	Government counterparts / Partner(s)
11. Location	Locations where Agreement will be performed [may include home base as well]
12. Partner Country(ies)	Uganda
13. Agreement Start Date	dd/mm/yyyy
14. Agreement Finish Date	dd/mm/yyyy
15. Term refer also Clause1 Schedule 1	Term
16. No. of Inputs refer also Clause 1 Schedule 1.	Inputs per specific contractor personnel/expert
17. Contractor's Country of Registration	Contacto's country of registration
18. Cardno Manager	Gerome Rich
19. Project Director or equivalent	Beatrice Kinyanjui
20. Team Leader or equivalent	Helena McLeod
21. Team Leader's Delegate	Theme lead
22. Project Specific Funding Source / Reference No.	CIGUxxx

## Standard Terms and Conditions

1. **The Parties**
  - 1.1 This Subcontractor Agreement sets out the terms and conditions under which Cardno Emerging Markets (UK) Ltd, and Registration No:1445342, engages [Subcontractor NAME], Registration No: [Subcontractor Reg No], to perform the Services in relation to the Project noted at **Item 4** of the **Agreement Details**. For the purposes of this Agreement, Cardno Emerging Markets (UK) Ltd will be referred to as 'Cardno' or 'we' or 'our' or 'us' and [Subcontractor NAME] as 'Contractor' or 'Contractor Personnel' or 'your Personnel' or 'Consultant' or 'you' or 'yours' or 'they'.
2. **The Agreement**
  - 2.1 This Agreement consists of:
    - (a) The **Agreement Details**, which summarise details unique to this Agreement;
    - (a) The **Standard Terms and Conditions** on which we engage you; and
    - (b) The **Schedules**, which contain Project Specific and/or Donor Requested Terms and Conditions, Definitions and Interpretations, Terms of Reference for the Assignment, Basis of Payment as well as other explanatory notes and documents as may be required by our Donor.
  - 2.2 Should this Agreement contain any discrepancy, ambiguity or inconsistency then the order of precedence of those documents forming this Agreement listed at **Clause 2.1** above shall apply to resolve the discrepancy, ambiguity or inconsistency.
  - 2.3 For the purposes of this Agreement and unless the context otherwise requires:
    - (a) words importing the singular include the plural and vice versa;
    - (b) words of the masculine gender include the feminine and vice versa;
    - (c) where a word or phrase is given a particular meaning, other parts of speech or grammatical forms of that word or phrase have corresponding meanings;
    - (d) a reference to Cardno includes our successors and permitted assigns;
    - (e) a reference to Project includes Programmes and vice versa;
    - (f) paragraph headings are for reference only and will not affect the interpretation of this Agreement; and
    - (g) a reference to a person will be construed and taken to be a reference to an individual, partnership, body corporate, trust or governmental department or instrumentality (whether Federal, State or local) and whether incorporated or not.
3. **The Assignment**
  - 3.1 You agree to satisfactorily perform the Assignment:
    - (a) at the Location noted at **Item 11** of the **Agreement Details**;
    - (b) in accordance with the Terms of Reference at **Schedule 3**;
    - (c) in accordance with the proposal submitted by you and approved by us;
    - (d) on the terms set out, and as amended by the Parties from time to time; and
    - (e) with the level of care, skill, competence, and diligence expected of a professional experienced in carrying out the type of services required.
  - 3.2 Unless otherwise stated in this Agreement, you, your Personnel and any subcontractors acknowledge that this assignment is non-exclusive.
  - 3.3 The Assignment will be undertaken in the name of Cardno and you, your Personnel and any subcontractors will observe the professional standards which we require. You, your Personnel and any subcontractors will not represent yourself as being an employee, partner or agent of Cardno, our Donor or of the UK Government.
  - 3.4 You, your Personnel and any subcontractors will complete the Assignment within the Term noted at **Item 15** of the Agreement Details. If the Assignment is not completed within the Term noted, you, your Personnel and any subcontractors will continue to work without delay to complete the Assignment in accordance with this Agreement, however your entitlement to remuneration will cease on expiry of the Term.
  - 3.5 Where Cardno considers that a delay has arisen, in whole or in part, because of an act or omission on the part of Cardno, the Donor, or other actors outside the Contractor's reasonable control, Cardno may, by notice in writing to the Contractor, extend the time for performance of the relevant obligation of the Agreement to the extent of the delay.
  - 3.6 You, your Personnel, your subcontractors and any accompanying dependants agree to conduct yourself or themselves in a way that maintains friendly relations between us, our Donor counterpart agencies, the government and people of the Partner Country. You will not make any public statement that may adversely reflect on us, our Donor, counterpart agencies or the government and people of the Partner Country.
  - 3.7 You, your Personnel and any subcontractors agree to comply with our procedures and instructions relating to the Project, working conditions, welfare and security.
  - 3.8 You acknowledge that at the time of entering into this Agreement You, your personnel, your subcontractors are not:
    - (a) listed on or subject to any formal or informal investigations or proceedings relating to the World Bank List or a Relevant List;
    - (b) temporarily suspended from tendering for World Bank or other donor development contracts; and
    - (c) associated with organisations and/or individuals associated with terrorism.
4. **Basis of Payment**
  - 4.1 The Basis of Payment is set out in at **Schedule 4**.
  - 4.2 The Fee is fixed for the Term. The Fee shall not be varied or changed in the event that an Item that comprises the Fee in **Schedule 4** is subject to rise or fall in accordance with a change in law or other statutory obligation imposed on you.
  - 4.3 Subject to **Clause 3.4** above, your entitlement to payment of the Fee begins on the agreement Start Date and finishes at the expiration of the agreement.
  - 4.4 The Fee is inclusive of any overtime or penalty or other allowances payable by us to you, your Personnel, or your subcontractors.
  - 4.5 Unless stated otherwise in **Schedule 4**, all payments made by us will be made in the currency of the Agreement between us and our Donor.
  - 4.6 Expenses (if any) arising in foreign currency shall be reimbursed at the exchange rate stated in OANDA ([www.oanda.com](http://www.oanda.com)) on the Friday immediately preceding the date on which the purchase was

- made or services acquired by the Contractor or, if this took place on a Friday, at the rate so stated on that day.
- 4.7 Allowances will be paid in accordance with the provisions set out in the Agreement.
- 4.8 We may adjust the payments under **Schedule 4** at any time if we reasonably believe that you or your Personnel or your subcontractors have:
- been delayed through Reasons Beyond Your Control;
  - not performed any part of the Terms of Reference in a timely and proper manner;
  - otherwise failed to comply with your obligations; or
  - been overpaid.
- 4.9 We may at any time offset any amount due for payment by us to you against any amount due for payment by you to us.
- 4.10 Unless agreed otherwise we will pay the Fee to one bank account nominated by you.
- 4.11 We will transfer to your nominated bank account the Fee in accordance with the Basis of Payment set out in **Schedule 4**.
5. **Taxation and Income Tax**
- 5.1 Unless agreed otherwise you are responsible for payment of any and all taxes, levies and other Government charges that may apply within or outside your Country of Registration.
- 5.2 We will withhold funds from your Fee where required under the laws of the UK or another country.
- 5.3 You will indemnify us and/or the UK Government for any costs that we may incur in the Partner Country or your Country of Registration in relation to your failure to meet any assessment or penalty under any applicable tax legislation.
6. **Medical, Dental, Evacuation and Travel Insurance**
- 6.1 In connection with the performance of the Services, you, your Personnel and your subcontractors must have and maintain during the Term the following valid and enforceable insurance policies:
- adequate medical and dental insurance for persons who are engaged to operate outside their country of permanent residence;
  - adequate insurance for medical evacuation and evacuation resulting from an insured event; and
  - adequate general travel insurance.
- 6.2 You acknowledge that:
- we are not qualified to advise you or your Personnel or your subcontractors in relation to what vaccinations and medications may be necessary during this Assignment;
  - you or your Personnel or your subcontractors have sought their own medical advice from a qualified medical practitioner regarding vaccination and medical requirements which may be necessary during the Assignment;
  - we will not be held liable for any failure or omission to inform you or your Personnel or your subcontractors of any possible health risks which may affect them during the Assignment;
  - where an act or omission of yours or your Personnel or your subcontractors results in an insurer denying cover under any policy or causes any insurance to be voided, we will have no liability to you, or your Personnel or your subcontractors, or any accompanying dependant persons for any loss or damage incurred;
- you are responsible for any medical, hospital and dental expenses incurred as a result of injuries or accidents;
  - we will not be responsible for the payment of health insurance premiums or medical, hospital or dental expenses for you, your Personnel or your subcontractors;
  - you are responsible for arranging all insurances relating to you, your Personnel and any subcontractors, their dependants and property; and
  - you will be liable for the cost of all inoculations, vaccinations and medications, whether compulsory, recommended or otherwise.
- 6.3 You are responsible for the cost of any other medical, dental, evacuation and travel insurances you, your Personnel and your subcontractors may require that are additional to those specified in this Agreement.
7. **Expenses and Travel**
- 7.1 We will reimburse you for those expenses listed in **Schedule 4** on the proviso that appropriate documentation of the expenditure (as required by us and/or our Donor and noted in **Schedule 4**) is provided with your invoice. No expenses other than those in **Schedule 4** will be reimbursed.
8. **Resources and Computer Viruses**
- 8.1 Unless otherwise advised by us, you must provide all necessary equipment to perform the services under this Agreement.
- 8.2 You will take all reasonable steps to ensure that all electronic data (e.g. disks, electronic mail and attached documents) sent to us whether using your own equipment, or equipment provided by the Project, or third party equipment are clear of any computer viruses or similar which could cause file and system attacks.
9. **Subcontracting**
- 9.1 You must not assign the benefit and obligations nor subcontract the Services under this Agreement without our prior written consent. Any such consent may be given subject to whatever conditions we or the Donor consider appropriate.
- 9.2 You agree that at all times you shall remain fully responsible for the performance of your obligations and that of your Personnel and any subcontractors under this Agreement.
- 9.3 When subcontracting work under this Agreement you shall ensure that all relevant obligations under this Agreement are passed onto the subcontractor. Notwithstanding this requirement you agree that you remain at all times liable for the performance or non-performance of a subcontractor engaged by you.
- 9.4 When subcontracting work under this Agreement, you must ensure that any Subcontractor engaged during the term of this Agreement is not:
- listed on a World Bank List or a Relevant List,
  - subject to any proceedings or an informal process which could lead to listing on a World Bank List or listing on a Relevant List;
  - temporarily suspended from tendering for World Bank or other donors of development funds contracts, pending the outcome of a sanctions process;
  - the subject of an investigation (whether formal or informal) by the World Bank or another donor of development funding.
- 9.5 If you have engaged a subcontractor in contravention of **Clause 9.4**, you must immediately on becoming aware or being notified of the breach,

- terminate the subcontract. Any costs incurred by you in relation to termination shall be borne by you.
- 9.6 You must maintain up-to-date records of the names of all subcontractors engaged by you to perform part of the Services. If requested by us, you:
- must, within five (5) working days, provide to us a copy of the records of subcontractors' names, in the format specified by us;
  - agree that we or the Donor may disclose publicly the names of any of your subcontractors;
  - must ensure that the subcontractor agrees that we or the Donor may disclose the subcontractor's name publicly; and
  - must provide to us or the Donor, a copy of any proposed or executed subcontract.
10. **Counter-Terrorism**
- 10.1 In accordance with the Terrorism Act 2000 and all subsequent regulations pursuant to this Act and/or the Terrorism (United Nations Measures) Orders 2009 of the United Kingdom or contravene the provisions of those and any subsequent applicable terrorism legislation, you must ensure that funds provided under this Agreement (whether through a subcontract or not) do not provide direct or indirect support or resources to:
- organisations and/or individuals associated with terrorism, and
  - organisations and individuals for whom the United Kingdom has imposed sanctions, including those listed in the *Proscribed Terrorist Organisations* list, maintained by the Home Office, listed in accordance with (EC Regulation 2580/2001) and/or the Terrorism (United Nations Measures) Orders 2009 of the United Kingdom or contravene the provisions of those and any subsequent applicable terrorism legislation and regulations made under that Act or the World Bank List or a Relevant List.
11. **Contractor Personnel**
- 11.1 The Contractor must ensure that Contractor Personnel are aware of, and must use its best endeavours to ensure Contractor Personnel comply with, the requirements of the Agreement.
- 11.2 The Contractor must use its best endeavours to ensure that all Contractor Personnel are of good fame and character.
- 11.3 The Contractor must use its best endeavours to ensure that no Contractor Personnel or their accompanying family members:
- become involved in the political affairs of the Partner Country (unless citizens of the Partner Country);
  - interfere in the religious affairs of the Partner Country (unless citizens of the Partner Country); or
  - share information known as a result of their work on, or relationship to, the Project, in a way that a reasonable person could foresee may be detrimental to the relationship between the UK and Partner Governments.
- 11.4 The Contractor must not engage a currently serving UK Government employee in any capacity in connection with the Services without the prior written approval of Cardno.
- 11.5 The Contractor must not engage a Former DFID Employee in any capacity in connection with the Services unless DFID has approved the engagement in writing.
- 11.6 The Contractor must ensure that media advertisements placed by the Contractor for personnel to fill a Project position acknowledge that the Project is funded with UK Aid from the UK Government.
- 11.7 Cardno or the Donor may give notice to the Contractor requiring the Contractor to remove any Contractor Personnel from work in respect of the Services. The Contractor must promptly arrange for the removal of such Contractor Personnel from work in respect of the Services and their replacement (if required) with Contractor Personnel acceptable to Cardno and the Donor.
- 11.8 The Contractor must advise Cardno promptly in writing of any change in the circumstances of any Contractor Personnel that, in the Contractor's reasonable opinion, is likely to affect Cardno's assessment of the person under the Agreement.
12. **Specified Personnel**
- 12.1 The Contractor must provide all Specified Personnel for the Project and for the minimum periods specified in **Schedule 3** and **Schedule 4**.
- 12.2 The Contractor must use its best endeavours to secure the availability of Specified Personnel for the term of the Agreement. If a change to Specified Personnel is required the Contractor must provide Cardno with not less than 1 month prior written notice of such change. Any proposed change to the Specified Personnel must only be made after written consent from Cardno in accordance with the procedure set out in **Clause 12.4** below.
- 12.3 The Contractor must advise Cardno promptly in writing of any change in the circumstances of any Specified Personnel that, in the Contractor's reasonable opinion, is likely to affect Cardno's assessment of the person under the Agreement.
- 12.4 Before appointing Specified Personnel to the Project, the Contractor must obtain Cardno's written approval. In seeking approval of proposed Specified Personnel the Contractor must provide to Cardno:
- the full names, dates of birth, and nationalities of proposed personnel;
  - a statement demonstrating that the proposed personnel has the demonstrated skills and capacity to undertake the job specification of the position and duration of the proposed appointment;
  - a copy of the proposed person's curriculum vitae certified as accurate by the person and showing recent and relevant experience and formal qualifications including dates of award; and
  - assurances that the nominated personnel has no existing commitments (defined in relation to the commitments of the position and not the individual's commitment to a particular organisation), to other Cardno projects that will suffer detriment if accepted on this Project. If this is not the case Cardno may require further information before assessing the individual's suitability.
- 12.5 If the Contractor is unable to provide acceptable replacement Specified Personnel with equivalent qualifications and experience Cardno may seek a reduction in fees.
- 12.6 This **Clause 12** is a fundamental term of the Agreement, such that breach shall entitle Cardno to terminate the Agreement in accordance with **Clause 29**.

- 13. Liaising and Reporting**
- 13.1 Unless noted otherwise, all communication between you and us (including reports, general correspondence, or other materials) must be in the English language.
- 13.2 You must liaise with and report to the Team Leader or delegate as detailed in this Agreement. You must inform us as soon as practicable if you encounter any actual or potential difficulties in performing the Services and provide details of your proposal to deal with the difficulties.
- 13.3 All written reports and other written documents must be delivered to us in electronic form. Unless notified otherwise, the electronic version must be in a form which is readable with all necessary formatting using the Microsoft Office 2007 range of software, or software that is fully compatible with and readable by Microsoft Office 2007 including any updates.
- 13.4 Reports, be they draft or final must not be forwarded directly to our Donor unless otherwise authorised in writing by us.
- 13.5 Unless otherwise agreed, on delivery of a report, we will have 30 calendar days to review the report for conformity with the requirements of this Agreement and we will advise you within that 30 calendar days of acceptance or rejection, including reasonably detailed reasons for rejection. If the report is rejected, you will have 14 calendar days after receipt of written notice identifying the non-conformities to re-write the report so that it conforms to the requirements of the Agreement. If you fail to correct the report and deliver a conforming report within 14 calendar days we may rewrite the report and charge you for any costs (including internal staff costs) incurred.
- 14. Intellectual Property**
- 14.1 The Project materials (referred to as the "Project Materials") produced by the Contractor as part of the Terms of Reference shall be the property of the Contractor and its licensors. Project Materials refer to all material including reports, data, documents and designs (whether or not electronically stored) and any software produced by the Contractor including employees, agents and subcontractors in connection with the Project.
- 14.2 The Contractor hereby grants the Donor and Cardno a worldwide, non-exclusive, irrevocable, perpetual, royalty-free licence to Use the Project Materials.
- 14.3 For the purposes of above Clauses, "Use" shall mean the reproduction, publication, sub-licence and transfer of or other dealing with the Project Materials and the intellectual property rights therein, including the production and sale of the Project Materials and products incorporating the same for use by any person or for sale or other dealing anywhere in the world.
- 14.4 The Contractor warrants that it has the authority to grant the licences referred to in the above Clauses.
- 15. Intellectual Property Rights Indemnity**
- 15.1 The Contractor must at all times indemnify Cardno, the Donor and their employees and agents and the Partner Country ('those indemnified') from and against any Loss or liability whatsoever incurred by any of those indemnified or arising from any claim, demand, suit, action or proceeding by any person against any of those indemnified where such Loss or liability arose out of an infringement, or an alleged infringement, of the Intellectual Property Rights of any person, which occurred by reason of the performance or use of the Services.
- 16. Moral Rights**
- 16.1 You agree that:
- (a) you have provided consents and waivers, to the fullest extent possible under the laws of any applicable jurisdiction, in relation to your Moral Rights in any of the documents that have been or will be created from your work sufficient to ensure our Donor's continued unimpeded use of the documents assigned to our Donor or us as the case may be under this Agreement.
- (b) our Donor or we as the case may be or persons nominated by our Donor or us as the case may be and their assignees may do or omit to do any act in relation to the documents created by you without infringing the Moral Rights of any person; and
- (c) that you shall do all things requested by our Donor or us as the case may be to give full effect to paragraphs (a) and (b) above including, without limitation, signing or procuring the signature of particular forms.
- 16.2 You acknowledge that we have entered into this Agreement fully relying upon the acknowledgments and warranties given by you under this **Clause 16**.
- 16.3 This **Clause 16** shall survive expiration or termination of this Agreement.
- 17. Security Requirements**
- 17.1 You shall comply, and shall procure the compliance of your Personnel, with DFID's Security Policy and the security plan and you shall ensure that the security plan produced by you fully complies with the Security Policy.
- 17.2 DFID's security policy can be accessed on the DFID website at <https://www.gov.uk/government/publications/security-policy-for-contractors-consultants-and-suppliers> or as notified to you from time to time. You shall ensure that you keep up to date with the latest version of the Security Policy on this website.
- 17.3 If you believe that a change to the Security Policy will have a material and unavoidable cost implication to the Services you may submit a change request. In doing so, you must support your request by providing evidence of the cause of any increased costs and the steps that it has taken to mitigate those costs. Any change shall then be agreed in discussion with Cardno.
- 17.4 Until and/or unless a change agreed by Cardno pursuant to clause 17.3 you shall continue to perform the Services in accordance with its obligations and for the charges applicable prior to any change request.
- 18. Confidentiality**
- 18.1 You, your Personnel and your subcontractors must not disclose, duplicate, or make unauthorised use of any Confidential Information to any other person other than those individuals who need to have access to the Confidential Information to carry out the Agreement and then only if those individuals acknowledge confidentiality on the same terms as this **Clause 18**.
- 18.2 This **Clause 18** will survive the termination of this Agreement.
- 18.3 You shall ensure that all of your Personnel are aware that the Official Secrets Acts 1911 to 1989 applies to them respectively.
- 19. Publicity**
- 19.1 The Contractor must identify and implement appropriate opportunities for publicising the Project.

- 19.2 The Contractor must not make any media or other announcements or releases relating to this Agreement and the Services either during or after the implementation of the project without the prior approval of Cardno as to the form, content and manner of the announcement or release.
- 19.3 The Contractor shall adhere to the reasonable written instructions provided by Cardno to the Contractor from time to time concerning:
- the use of the Donor's name and logo;
  - the use of the Lead Project logo;
  - the use of Cardno's logo; and
  - how reference to the Donor, Lead Project and/or Cardno should appear in any reports, presentations and promotional material produced by the Contractor in connection with the Project.
- 19.4 The Donor and/or Cardno may refer to the Contractor, or the individual members of its Consortium and the Project in its publicity material. The Contractor will procure that the members of the Consortium agree to the Donor's and Cardno's rights under this Clause.
20. **Privacy**
- 20.1 You, your Personnel and your subcontractors must at all times comply with and ensure compliance with the *Privacy and Electronic Communications (EC Directive) Regulations 2003* and all subsequent amendments and the *Data Protection Act 1998* and all subsequent amendments. In particular, you, your Personnel and your subcontractors must comply with the requirements relating to the collection, storage, access, alteration, use, and disclosure of any personal information made, created, obtained or provided at any time in connection with the provision and performance of the Services.
21. **Prevention of Fraud and Bribery**
- 21.1 You represent and warrant that neither you, nor to the best of your knowledge any Specified Personnel, agents of subcontractors, or any person acting on your behalf, have at any time prior to the commencement date:
- Committed a Prohibited Act or been formally notified that it is subject to an investigation or prosecution that is related to an alleged Prohibited Act; and/or
  - Been listed by any government agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act.
- 21.2 You, your personnel or subcontractors shall not make or cause to be made, nor receive, or seek to receive any offer, gift or payment, consideration or benefit of any kind, which could be construed as an illegal or corrupt act, either directly or indirectly to any party, as an inducement or reward in relation to the execution of this Agreement.
- 21.3 You, your Personnel or subcontractors shall not bribe public officials, including foreign officials. Any breach of this **Clause 21** shall be grounds for immediate termination of this Agreement.
- 21.4 You, and your subcontractors, must have a Fraud Control Plan.
- 21.5 You, your Personnel and your subcontractors must:
- comply at all times with Cardno's Procurement Manual and the relevant policies of the Donor;
  - comply with any fraud control strategy implemented by us; and
- report fraudulent activity, including alleged, attempted, suspected or detected fraudulent activity, within five (5) business days of first becoming aware of the fraudulent activity.
- 21.6 This **Clause 21** Error! Reference source not found. is a fundamental term of the Agreement, and breach of this **Clause 21**Error! Reference source not found. shall:
- entitle us to take any action to the maximum extent permitted by law to prevent any Fraudulent Activity (if capable of prevention) by you, your Personnel and recover all and any damages from you; and
  - entitle us to terminate this Agreement immediately without notice and make no compensation to you for such termination.
- 21.7 Our Donor, or we, reserve the right to appoint its own investigator, conduct its own investigation or report fraudulent activity to the appropriate law enforcement agencies or any other person or entity our Donor, or we, deem appropriate in the UK or in the Partner Country for investigation. If our Donor exercises its rights under this **Clause 21**, the Contractor must provide all reasonable assistance that may be required at its sole expense.
- 21.8 You and your subcontractors must investigate any fraud at your own cost. Whether you or your subcontractor conducts an investigation or appoints an investigator to conduct an investigation, the person conducting the investigation must possess an appropriate qualification as agreed to by Cardno.
- 21.9 Where you or any of your employees, servants, agents or subcontractors, or any person acting on your behalf, does any of the acts mentioned in **Clause 21.1** or commits any offence under the Bribery Act 2010, with or without the knowledge of the Contractor, in relation to this Agreement or any other agreement with Cardno, we shall be entitled:
- to terminate the Agreement with immediate effect by written notice to the Contractor and recover from the Contractor the amount of any loss resulting from the termination;
  - to recover from the Contractor the amount or value of any such gift, consideration or commission;
  - to recover from the Contractor any other loss sustained as a result of any breach of this **Clause** Error! Reference source not found., whether or not the Agreement is terminated.
- 21.10 When exercising its rights or remedies under this **Clause** Error! Reference source not found. Cardno shall:
- act proportionately in the light of the gravity and circumstances of the particular breach; and
  - give all due consideration, where appropriate, to the use of remedies other than termination of the Agreement.
22. **Child Protection**
- 22.1 You are responsible and accountable to us for preventing and reporting any child abuse or exploitation or suspected child abuse or exploitation as part of your routine responsibilities.
- 22.2 You, and your subcontractors, are required to provide criminal record checks for all Specified Personnel who will undertake positions or services which are deemed to be "Working with Children".
- 22.3 This **Clause 22** is a fundamental term of the Agreement, and breach of this **Clause 22** shall:
- entitle us to take any action to the maximum extent permitted by law to prevent any abuse or exploitation of children (if capable of



- prevention) by your Personnel or subcontractors and recover all and any damages from you, and
- (b) entitle us to terminate this Agreement immediately without notice and make no compensation to you for such termination.
- 22.4 You must advise Cardno immediately in writing if any your Personnel or subcontractor Personnel are accused of, charged with, arrested for, or convicted of, criminal offences relating to child abuse or exploitation. We or the Donor may require your Personnel or subcontracted Personnel to be suspended from duty or transferred to other duties during formal investigations relating to child abuse or exploitation. The Contractor must comply promptly with any such notice.
23. **Conflict of Interest**
- 23.1 You, your Personnel and your subcontractors warrant that, to the best of your knowledge after making diligent inquiry, at the date of signing this Agreement no undisclosed conflicts of interest exists or are likely to arise in the performance of the Services.
- 23.2 If during the performance of the Services a conflict of interest arises, or appears likely to arise, you must:
- (a) notify us immediately in writing; and
- (b) make full disclosure of all relevant information relating to the conflict.
- 23.3 During the period of this Agreement you, your Personnel and your subcontractors must not, without our prior written approval, which will not be unreasonably withheld:
- (a) make use of any material acquired or created during the Term of this Agreement other than for the purpose of the Project; or
- (b) advertise or publicise any association with us or the Donor or use the name, emblem, logo, or official seal of Cardno or our Donor in connection with your business or profession.
24. **Waiver**
- 24.1 The failure, delay, relaxation or indulgence on the part of any Party in exercising any power or right conferred upon that Party by this Agreement does not operate as a waiver of that power or right, nor does any single exercise of any power or right preclude any other or further exercise of it or the exercise of any other power or right under this Agreement.
25. **Indemnity**
- 25.1 You agree to indemnify and keep us indemnified, on a full recovery basis, for the direct consequences of any breach of this Agreement by you or any of your Personnel or your subcontractors, or any failure by you or any of your Personnel or your subcontractors to complete the Services to our reasonable satisfaction.
- 25.2 You agree to indemnify us and keep us indemnified on a full indemnity basis, against any and all costs, losses, expenses or damages which we incur or are liable for as a result of any unlawful, negligent, reckless or deliberately wrongful act or omission of you or any of your Personnel or your subcontractors in carrying out the Services.
- 25.3 We agree to indemnify you and keep you indemnified on a full indemnity basis, against any and all costs, losses, expenses or damages which you incur or are liable for as a result of any unlawful, negligent, reckless or deliberately wrongful act or omission of us or any of our Personnel in carrying out the Services.
- 25.4 You, your Personnel and your subcontractors accept all risks associated with travel that is associated with the Project and residing in the Partner Country and any issues arising out of or in connection with providing Services to the Project.
- 25.5 You must at all times indemnify Cardno and our Donor, our employees and agents and the Partner Country ('those indemnified') from and against
- (a) any Loss or liability whatsoever incurred by any of those indemnified or arising from any claim, demand, suit, action or proceeding by any person against any of those indemnified where such Loss or liability arose out of an infringement, or an alleged infringement, of the Intellectual Property rights of any person, which occurred by reason of the performance or use of the Services;
- (b) any claim made against Cardno or the Donor by a third party engaged by the Contractor in any capacity including as an employee, agent, consultant or subcontractor relating to the termination of their engagement; and
- (c) any claim made against Cardno or the Donor relating to the death or injury of any person engaged by the Contractor in any capacity including as an employee, agent, consultant or subcontractor save to the extent that the relevant person's death or injury was caused by the negligence of Cardno or of the Donor.
- 25.6 This **Clause 25** shall survive the termination of this Agreement.
26. **Negation of Partnership, Employment and Agency**
- 26.1 This Agreement operates as an engagement of you as an independent contractor only and does not constitute any other relationship such as partnership, employment or agency.
27. **Variations to the Agreement**
- 27.1 The Parties agree and accept that the Services to be performed may be changed, increased or decreased, as directed by our Donor from time to time, and as a consequence this Agreement may be subject to change.
- 27.2 We reserve the right to change or modify allowances or policies in line with any changes to our own corporate policies or as required in connection with any changes imposed by a Donor direction.
- 27.3 If either Party notifies the other Party that they wish to vary this Agreement, both Parties must use all reasonable endeavours to agree on the terms of such variations including any consequent changes in the total payment due to you.
- 27.4 Any amendment or variation to this Agreement must be in writing and signed by both Parties.
28. **Suspension of the Agreement**
- 28.1 We may suspend this Agreement where:
- (a) you or your Personnel or your subcontractors are in breach of this Agreement;
- (b) the Assignment is delayed by Reasons Beyond Our Control.
- 28.2 During periods of suspension and until the suspension is removed your Personnel or your subcontractors shall not be entitled to payment of the Fee or any other benefits under this Agreement unless specifically agreed to in writing by us.
- 28.3 Where the Assignment is suspended and your Personnel's or your subcontractor's Personnel Accommodation is provided by us, they may not be permitted to remain in the Accommodation unless specifically agreed otherwise in writing by us.

- 28.4 Where the Assignment is suspended and your Personnel's or your subcontractor's Accommodation is reimbursed by our Donor, Cardno will cease reimbursing the cost of their Accommodation unless specifically agreed otherwise in writing by us.
29. **Suspension or Termination without default of the Contractor**
- 29.1 We may suspend or terminate this Agreement or any part of the services at any time where the Donor instructs us or suspends or terminates any part of the Lead Project contract.
- 29.2 Where the Agreement has been suspended or terminated pursuant to **Clause 29.1**, the Contractor shall
- (a) Take such steps as are necessary to terminate the provision of Services or any part of the Services (including suspending or terminating any subcontracts) in a cost effective, timely and orderly manner; and
- (b) Provide to us not more than 30 days after notification of the suspension or termination of this Agreement an account in writing, stating:
- i Any costs, if any, due before the date of suspension or termination;
- ii Costs to be expended after the date of suspension or termination which the Contractor necessarily incurred in the proper performance of this Agreement and which cannot reasonably be expected to avoid or recover.
30. **Termination for Contractor Default**
- 30.1 In addition to any other rights or remedies it has at law or in equity or under this Agreement, Cardno may, by notice in writing to the Contractor terminate this Agreement, with effect from the date in the notice, if the Contractor:
- (a) commits a breach of this Agreement and:
- (i) that breach is not capable of remedy;
- (ii) fails to remedy that breach within 10 Business Days (or such further time as Cardno may, in its absolute discretion, specify), after receiving a notice from Cardno requiring the Contractor to remedy the breach; or
- (iii) does not commence to remedy that breach, within a reasonable time (having regard to the nature of the breach) after being given notice by Cardno requiring the Contractor to remedy the breach;
- (b) has regularly or persistently failed to meet any, some, or all requirements of this Agreement, whether or not Cardno has required the Contractor to remedy a breach under **Clause 30.1(a)**;
- (c) becomes, or in Cardno's reasonable opinion is likely to become, bankrupt, insolvent or otherwise financially unable to fulfil its obligations under this Agreement;
- (d) is the subject of a receiving order or administration order;
- (e) is wound up by resolution or an order of the court;
- (f) ceases to carry on business;
- (g) makes an assignment of its estate for the benefit of creditors or enters into any arrangement or composition with its creditors or has a receiver and manager appointed on behalf of debenture holders or creditors;
- (h) suffers any execution against its assets having, or which in Cardno's reasonable opinion is likely to have, an adverse effect on its ability to perform this Agreement;
- (i) ceases to hold any licence, qualification, approval, authority or consent required for the Contractor to comply with its obligations under this Agreement (except to the extent that this is outside the Contractor's reasonable control);
- (j) assigns its rights otherwise than in accordance with the requirements of this Agreement;
- (k) suffers a change in Control which in Cardno's reasonable opinion may adversely affect the Contractor's ability to perform the Services under this Agreement;
- (l) made a statement in its tender leading to this Agreement and Cardno is satisfied on reasonable grounds that the statement was materially inaccurate or incorrect;
- (m) is in breach of any of the warranties regarding pre-listing proceedings, temporary suspension from tendering or listing on a World Bank List or Relevant List, given in the Tenderer Declaration submitted by the Contractor with its tender leading to this Agreement;
- (n) is, or any Contractor Personnel is, listed on a World Bank List or Relevant List, or is subject to any proceedings, or an informal process, which could lead to being listed or temporarily suspended from tendering for World Bank or other donors of development funds contracts, or is subject to an investigation whether formal or informal by the World Bank or another donor of development funding;
- (o) is in breach of a warranty given in the Tenderer Declaration submitted by the Contractor with its tender leading to this Agreement;
- (p) is, during the term of this Agreement, convicted of an offence of, or relating to, bribery of a public official. In this **Clause 30.1(p)** the Contractor includes Contractor Personnel, agents, sub-contractors and any person acting on their behalf;
- (q) is in breach of the warranty regarding convictions or proceedings relating to an offence of, or relating to, child exploitation or abuse, given in the Tenderer Declaration submitted by the Contractor with its tender leading to this Agreement; or
- (r) does not take appropriate steps to manage and resolve an allegation of child exploitation or abuse with respect to this Agreement, including a failure to inform Cardno immediately of any allegation of child abuse or exploitation.
- 30.2 If this Agreement is terminated under **Clause 29** or this **Clause 30**:
- (a) subject to this Agreement, the parties are relieved from future performance of this Agreement, without prejudice to any right of action that has accrued at the date of termination;
- (b) subject to this Agreement, all licences and authorisations granted to the Contractor by Cardno or the Donor under this Agreement terminate immediately despite anything to the contrary contained in the relevant licence or authorisation;
- (c) the Confidential Information, Supplies and any other property supplied or given to the Contractor by Cardno or the Donor pursuant to this Agreement must be immediately returned to Cardno or the Donor;

- (d) Cardno is not obliged to make any further payments (including the payment of Fees) to the Contractor. However, Cardno may, in its absolute discretion, consider making a payment to the Contractor in such amount and upon such terms as Cardno determines is appropriate in the circumstances; and
- (e) the Contractor will indemnify and hold Cardno harmless against any Losses, costs and expenses arising out of or in connection with the termination or any breach of this Agreement by the Contractor (including those arising from affected sub-contracts).
31. **Termination for Convenience**
- 31.1 In addition to any other rights or remedies it has at law or in equity or under this Agreement, Cardno may, by notice in writing to the Contractor, terminate or reduce the scope of this Agreement from the time specified in the notice (and without the need to give further notice) and, in that event, may give to the Contractor such directions as it thinks fit in relation to subsequent performance of this Agreement.
- 31.2 Where notice is given under **Clause 31** the Contractor must:
- (a) comply with all directions given by Cardno;
- (b) cease or reduce (as applicable) the performance of work under the Agreement; and
- (c) immediately do everything possible to mitigate its Losses, and all other loss, costs (including the costs of its compliance with any directions) and expenses in connection with the termination (including those arising from affected sub-contracts) arising in consequence of termination of this Agreement under this **Clause 31**.
- 31.3 In the event of termination or reduction in scope under this **Clause 31.3**, subject to **Clause 31.4** Cardno will only be liable to the Contractor for:
- (a) Fees, as payable under **Schedule 4**, for Services performed prior to the termination, on a pro rata basis; and
- (b) Costs that are:
- (i) directly attributable to the termination or reduction in scope of this Agreement; and
- (ii) in Cardno's opinion, reasonably and properly incurred by the Contractor in connection with the Agreement, to the extent that such Costs are substantiated to Cardno.
- 31.4 Cardno is not liable for any loss of profits or any other form of expectation loss arising out of, or in connection with, the termination or reduction in scope of this Agreement under this **Clause 31**.
32. **Applicable Law**
- 32.1 The law of this Agreement is the law of England and Wales.
33. **Continuing Obligations**
- 33.1 Where the Agreement has ended, whether by completion, termination or otherwise, **Clause 14 Intellectual Property, Clause 16 Moral Rights; Clause 17 Security Requirements; Clause 18 Confidentiality; Clause 20 Privacy; Clause 21 Prevention of Fraud and Bribery; Clause 25 Indemnity; Clause 30 Termination for Contractor Default; Clause 35 Resolution of Disputes; Clause 5 Insurance Requirements (Schedule 1); Clause 7 Access to Documents (Schedule 1); and, Clause 9 Expert Information (Schedule 1)** will survive this Agreement and you, your Personnel
- and your subcontractors will continue to be bound by them.
34. **Severability**
- 34.1 If any provision of this Agreement is illegal, void, invalid or unenforceable for any reason, all other provisions which are self-sustaining and capable of separate enforcement shall, to the maximum extent permitted by law, be and continue to be valid and enforceable.
35. **Resolution of Disputes**
- 35.1 In the event of any disagreement or dispute between both Parties arising in connection with this Agreement, both Parties agree to use best endeavours to reach an amicable settlement. If such a settlement cannot be reached within 30 calendar days from the occurrence of a dispute notified by either Party to the other, then all such disagreements or disputes shall be settled by arbitration exclusively according to the Laws of England and Wales.
- 35.2 Any information or documents disclosed in connection with the resolution of the dispute must be kept confidential and may not be used except to attempt to settle the dispute or within the arbitral proceedings provided for in **Clause 35.1** above.
- 35.3 Both Parties will each bear their own costs of resolving a dispute under this **Clause 35** and will bear equally the costs of any third party engaged provided that such third parties have been engaged at the express request of both Parties.
- 35.4 Whilst we are both attempting to resolve the dispute you will continue to undertake your Assignment.
36. **Specific Obligations**
- 36.1 You, your Personnel and your subcontractors will:
- (a) recognise the advisory nature of the work and will behave in a manner consistent with the fostering and maintaining of friendly relations between the Project Partner, its personnel, us, and our Donor;
- (b) not release or make any public statement concerning the Project without our prior written approval;
- (c) respect and abide by the laws and regulations of the Partner Country and, unless a citizen of the Partner Country, will not become involved in the political or religious affairs of the Partner Country;
- (d) comply with the instructions of our nominated representative, the British diplomatic mission in the Partner Country, or other authority as may be advised to you from time to time, regarding security, consular and welfare matters;
- (e) comply with our requirements as set out in our Head Contract with our Donor;
- (f) comply with our requirements and that of our Donor with respect to good behaviour, ethical and honest standards, and professionalism;
- (g) take all reasonable steps to favourably represent ours and our Donor's interests; and
- (h) take all reasonable steps to understand the environment and culture of the Partner Country.
- 36.2 You warrant that you, your Personnel and your subcontractors:
- (a) will comply with the relevant and applicable laws, regulations, policies and guidelines, both in the UK and in the Partner Country.
- (b) are of good fame and character;
- (c) are properly qualified for the tasks you are required to perform;

(d) have been declared fit and healthy by a legally qualified medical practitioner to work in the Partner Country and have received the necessary medical advice, including that on vaccinations and other preventive medical

(e) assistance allowing you to undertake work in-country in a safe manner; and will act in a fit and proper manner while carrying out work or performing duties under this Agreement.

Executed by the Parties as their Agreement:

SIGNED for and on behalf of <b>CARDNO EMERGING MARKETS (UK) LTD</b> by a duly authorised officer		
.....	.....	.....
<b>Name &amp; Designation (Block letters)</b>	<b>Signature</b>	<b>Date</b>
In the presence of		
.....	.....	.....
<b>Name &amp; Designation (Block letters)</b>	<b>Signature</b>	<b>Date</b>

SIGNED for and on behalf of <b>[Subcontractor NAME]</b> by:		
.....	.....	.....
<b>Name &amp; Designation (Block letters)</b>	<b>Signature</b>	<b>Date</b>
In the presence of		
.....	.....	.....
<b>Name &amp; Designation (Block letters)</b>	<b>Signature</b>	<b>Date</b>

## Schedule 1 Project Specific / Donor Mandated Conditions

In addition to the Standard Terms and Conditions the following Project Specific / Donor Mandated Conditions apply.

1. **Duration of the Agreement**
  - 1.1. This Agreement does not become effective until, where applicable:
    - (a) we have signed approval from our Donor for the implementation of this Agreement; and
    - (b) the necessary clearances have been obtained from the government of the Partner Country; and
    - (c) our Donor has approved you to act as our Contractor; and
    - (d) our Donor has confirmed with us the Start Date of this Agreement; and
    - (e) this Agreement has been signed by you and us.
  - 1.2. Provided these conditions are met, this Agreement starts on the Start Date noted at **Item 13** of the **Agreement Details** and will continue for the Term (refer **Item 15** of the **Agreement Details**) and the Finish Date noted at **Item 14** of the **Agreement Details** and continues until all obligations under this Agreement have been fulfilled unless terminated earlier in accordance with **Clauses 30** or **31** of the Agreement.
  - 1.3. Subject to our Donor's approval, we may vary the Term by written agreement with you.
  - 1.4. Where the Term is non-consecutive or consists of multiple inputs the dates and duration of future inputs will be agreed between you and us in accordance with **Clause 27** of the Agreement.
2. **Invoicing**
  - 2.1. You must provide an Invoice setting out the price of each category of Supply. Where Value Added Tax (VAT) is applicable, you must provide a proper Tax Invoice setting out the price of each category of Supply exclusive of VAT (Value Added Tax) as well as the VAT payable on each component of taxable Supply and the total VAT-inclusive price of all supplies made in terms of this Agreement.
  - 2.2. Unless otherwise agreed by us, invoices submitted to us for services and reimbursable expenses that were incurred more than three months prior may be denied.
3. **Receipts Required**
  - 3.1. In accordance with the requirements of our Donor you must provide original receipts / invoices for those Reimbursable items specified in **Schedule 4**.
4. **General**
  - 4.1. You agree to:
    - (a) ensure that the Services are provided to a standard which shall promote UK's international reputation and standing as a source of skill and expertise in the provision of international assistance;
    - (b) within the definition of the Terms of Reference and without the necessity to carry out any further surveys or the like, use reasonable endeavours to ensure that the Project does not have a negative impact on other businesses or activities;
    - (c) within the definition of the Terms of Reference and without the necessity to carry out any further surveys or the like, use reasonable endeavours to ensure that the Project has no adverse effects on the local environment in the country where the Project is being implemented;
    - (d) promptly advise us of any significant risks;
    - (e) liaise with, and obtain all necessary consents, approvals and authorisations from any public and other authorities in the Partner Country necessary to perform the Services;
    - (f) provide adequate support resources to secure the aims and objectives of the Project in relation to the required Services;
    - (g) be responsive to the changing needs and environment of the Partner Country;
    - (h) seek to improve the quality, effectiveness and efficiency of the Services at every opportunity; and
    - (i) ensure that you, your Personnel and subcontractors conduct themselves in accordance with the Donor's Code of Conduct.
5. **Insurance**
  - 5.1. Unless otherwise agreed in writing by us you are to maintain all insurances that a prudent contractor would maintain for this Agreement including but not limited to:
    - (a) public liability with minimum to cover the contractor's obligations under this Agreement;
    - (b) professional indemnity to cover the contractor's obligations under this Agreement;
    - (c) worker's compensation with the minimum cover as required by law.
    - (d) property insurance covering any contractor's equipment, materials, supplies, and reinstatement of any data used on the Project for its full replacement value.
  - 5.2. At our request you will provide copies of all certificates of currency of insurance policies as proof of their currency. Failure to provide this will be grounds for termination.
  - 5.3. All insurance cover must be valid for the term of this Agreement and for six years after the completion date of the Term.
  - 5.4. All insurance required to be maintained under **Clauses 5.1(a)** must:
    - (a) where applicable, be in the names of you, Cardno and the Donor;
    - (b) ensure that the insurer waives all rights of subrogation or action it may have against Cardno or the Donor;
    - (c) ensure that the insurer accepts the term 'insured' as applying to each of the persons covered by the policy as if a separate policy of insurance had been issued to each of them;
    - (d) ensure that any inadvertent non-disclosure or inadvertent inaccurate disclosure by a person covered by the policy does not prejudice the rights under the policy of the other persons/s covered by the policy; and
    - (e) ensure that the knowledge of one insured party will not be imputed to another insured party in assessing compliance with the applicable duty or duties of disclosure.
  - 5.5. You undertake to use your best endeavours to ensure that you commit no act or omission which renders any of the insurances required by this Agreement to be null and void or of less value.
  - 5.6. You are responsible for the payment of all excesses and deductibles of the insurances required to be maintained by you under this Agreement and all such insurance are primary insurances.

## 6. Assets

- 6.1. The Contractor must encourage their counterparts to use the official Counterpart Agency's sources of supply to meet their operational needs.
- 6.2. Where the project requires that equipment or supplies be procured, the Contractor will undertake to procure such supplies in line with Cardno's Procurement Guidelines and Procedures, applicable policies of the Donor and with written approval from Cardno.
- 6.3. The Contractor shall not procure or maintain property insurance for any equipment or supplies procured for the purpose of the project.
- 6.4. For any asset purchased with program funds the Contractor is required to maintain a register of assets, available for audit by Cardno and/or our donor, that includes at minimum the item, serial no., purchase price, location, current condition, description of the asset, date of procurement and disposal or handover details.
- 6.5. The Asset Register will be made available to Cardno upon request but will otherwise be submitted to Cardno at the time of updating.
- 6.6. The Contractor is required to obtain written agreement from Cardno prior to the handover or disposal of any item in the Asset Register

## 7. Access to Documents

- 7.1. You acknowledge that if our Donor receives a request for access to a document created by, or in the possession of you, your Personnel or your subcontractors that relates to the performance of the Project, our Donor may at any time by written notice require us to provide the document to our Donor, and we must promptly comply with the notice and you will comply with our request for access to that document.
- 7.2. This **Clause 7** shall survive expiration or termination of this Agreement.

## 8. Access to Contractor Premises, Data and Records

- 8.1. Subject to reasonable notice, You agree that the Donor or Cardno may:
- access your premises at no additional charge to either the Donor or Cardno;
  - require you to provide records and information in an easily accessible format;
  - inspect and copy documentation, records, books and accounts under your control that relate to this Agreement; and
  - require assistance in respect of any inquiry including, but not limited to a parliamentary inquiry into or concerning this Agreement.
- 8.2. The requirement for and participation in audits does not in any way reduce your responsibility to perform your obligations under this Agreement.
- 8.3. The Donor and Cardno must use reasonable endeavours to ensure that such access as outlined in this **Clause 8**, does not unreasonably delay or disrupt in any material respect the Contractor's performance of its obligations under the Agreement.
- 8.4. The obligations of this **Clause 8** shall be extended to any subcontractors engaged by you for the delivery of the services under this Agreement.

## 9. Expert Information

- 9.1. You agree that we give our Donor, upon request, a copy of this Agreement and/or the following information about your Personnel or your subcontractors' personnel:
- position title;
  - nature of engagement;
  - gender;

- nationality;
- work location;
- Agreement start and end date;
- number of days worked in time period specified by our Donor preceding the receipt of the request;
- monthly or daily fee remuneration rate;
- any other information regarding remuneration or costs associated with Experts and identified by our Donor in the request.

Our Donor will use the Expert Information to ensure that the UK Government's official overseas aid program achieves value for money and to meet its reporting requirements.

- 9.2. You agree that our Donor may disclose the details of this Agreement and/or Expert Information to other governmental departments and agencies, Ministers and Parliamentary Secretaries, and to the Parliament.
- 9.3. Personnel are entitled to access their own Personal Information which is held by our Donor, unless our Donor has a lawful right to refuse access.
- 9.4. This **Clause 9** shall survive termination or expiration of this Agreement.

## 10. Donor use of Contractor Confidential Information

- 10.1. Except to the extent set out in this **Clause 10** or where disclosure is expressly permitted elsewhere in this Agreement, each Party shall:
- treat the other Party's Confidential Information as confidential and safeguard it accordingly;
  - not disclose the other Party's Confidential Information to any other person without the owner's prior written consent.
- 10.2. Clause 10.1 shall not apply to the extent that:
- such disclosure is a requirement of Law applicable to the Party making the disclosure, including any requirements for disclosure under the FOIA, the Environmental Information Regulations and associated codes of practice pursuant to **Clause 11** (Freedom of Information);
  - such information was in the possession of the Party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner;
  - such information was obtained from a third party without obligation of confidentiality;
  - such information was already in the public domain at the time of disclosure otherwise than by a breach of this Agreement;
  - it is independently developed without access to the other party's Confidential Information.
- 10.3. The Contractor may only disclose the Donor's and Cardno's Confidential Information to the Contractor's Specified Personnel who are directly involved in the provision of the Services and who need to know the information, and shall ensure that such Contractor's Personnel are aware of and shall comply with these obligations as to confidentiality.
- 10.4. The Contractor shall not, and shall procure that the Contractor's Personnel do not, use any of the Donor's or Cardno's Confidential Information received otherwise than for the purposes of this Agreement.
- 10.5. At the written request of Cardno, the Contractor shall procure that those members of the Contractor's Personnel referred to in **Clause 10.3**, respectively sign a confidentiality undertaking prior to commencing any work in accordance with this Agreement.

- 10.6. Nothing in this Agreement shall prevent Cardno or the Donor from disclosing the Contractor's Confidential Information:
- (a) on a confidential basis to any Central Government Body for any proper purpose of the Donor or of the relevant Central Government Body;
  - (b) to Parliament and Parliamentary Committees or if required by any Parliamentary reporting requirement;
  - (c) to the extent that the Donor (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions;
  - (d) on a confidential basis to a professional expert, consultant, supplier or other person engaged by any of the entities described in **Clause 10.6(a)** (including any benchmarking organisation) for any purpose relating to or connected with the programme's Head Agreement;
  - (e) on a confidential basis for the purpose of the exercise of its rights under the Head Contract, including the Audit Rights, its step-in rights pursuant to **Clause 14** (Audit), its rights to appoint a Third Party pursuant to **Clause 35** (Resolution of Disputes) and Exit Management rights;
  - (f) on a confidential basis to a proposed Successor Body in connection with any assignment, novation or disposal of any of its rights, obligations or liabilities under this Agreement, and for the purposes of the foregoing, references to disclosure on a confidential basis shall mean disclosure subject to a confidentiality agreement or arrangement containing terms no less stringent than those placed on the Donor under this **Clause 10**;
  - (g) for the purpose of the examination and certification of the Donor's accounts.
- 10.7. We shall use all reasonable endeavours to ensure that any government department, Contracting Authority, employee, third party or Sub-contractor to whom the Supplier's Confidential Information is disclosed pursuant to **Clause 10.6** is made aware of Cardno's obligations of confidentiality.
- 10.8. Nothing in this **Clause 10** shall prevent either party from using any techniques, ideas or know-how gained during the performance of the Agreement in the course of its normal business to the extent that this use does not result in a disclosure of the other party's Confidential Information or an infringement of IPR.
11. **Freedom of Information**
- 11.1. The Contractor acknowledges that Cardno, as a Supplier to DFID is subject to the requirements of the FOIA, the Environmental Information Regulations and associated codes of practice and shall assist and cooperate with DFID to enable DFID to comply with its Information disclosure obligations.
- 11.2. The Contractor shall ensure that its Subcontractors shall:
- (a) transfer to DFID all Requests for Information that it receives as soon as practicable and in any event within two Working Days of receiving a Request for Information;
  - (b) provide DFID with a copy of all Information in its possession, or power in the form that DFID requires within five Working Days (or such other period as DFID may specify) of DFID's request;
  - (c) provide all necessary assistance as reasonably requested by DFID to enable DFID to respond to the Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations.
- 11.3. The Contractor shall ensure that all Information is retained for disclosure in accordance with **Clauses 11.4** and **11.5** and shall permit DFID to inspect such records as requested by DFID from time to time.
- 11.4. The Contractor shall, during this Agreement and for a period of at least seven years following the expiry or termination of this Agreement, retain and maintain all Information:
- (a) in accordance with the requirements of the Public Records Office and in accordance with the exercise of the degree of care that would be expected from a leading company within the relevant industry or business sector;
  - (b) in chronological order;
  - (c) in a form that is capable of audit;
  - (d) at its own expense.
- 11.5. Wherever practical, original Information shall be retained and maintained in hard copy form.
12. **Early Notification**
- 12.1. You must immediately notify us if you, your Personnel or subcontractors and their personnel are:
- (a) listed on a World Bank List or on a Relevant List;
  - (b) subject to any proceedings or an informal process which could lead to listing on a World Bank List or listing on a Relevant List;
  - (c) temporarily suspended from tendering for World Bank contracts by the World Bank, pending the outcome of a sanctions process;
  - (d) temporarily suspended from tendering by a donor of development funding other than the World Bank; or
  - (e) the subject of an investigation (whether formal or informal) by the World Bank or another donor of development funding.
13. **Records, Books and Accounts**
- 13.1. You must at all times maintain full, true, separate and up to date records, books and accounts in relation to the Agreement.
- 13.2. These records, books and accounts must:
- (a) enable the prevention, detection and investigation of fraud; be kept in a manner that permits them to be conveniently and properly audited; and
  - (b) Be maintained for a period of 7 years after the termination of this agreement or 6 years after the last payment of all sums due to the Contractor under this Agreement, whichever comes later.
14. **Access and Audits**
- 14.1. The Contractor shall keep secure and maintain until six years after the final payment of all sums due to the Contractor under the Agreement, or such other period as may be agreed between the Parties, full and accurate records of the Services, all expenditure reimbursed by Cardno and all payments made by Cardno.
- 14.2. The Contractor shall grant to the Donor, or its authorised agents, such access to those records as they may reasonably require in order to check the Contractor's compliance with the Agreement and monies utilised, throughout the whole supply chain.
- 14.3. For the purposes of the examination and certification of the Donor's accounts, or any examination under

- section 6(1) of the National Audit Act 1983 or annual re-enactment thereof as to the economy, efficiency and effectiveness with which the Donor has used its resources, the Comptroller and Auditor General may examine such documents as he may reasonably require which are owned, held or otherwise within the control of the Contractor and may require the Contractor to provide such oral or written explanations as he may reasonably require for those purposes. The Contractor shall give all reasonable assistance to the Comptroller and Auditor General for those purposes.
- 14.4. Clause 14.3 applies only in respect of documents relating to the Agreement and only for the purpose of the auditing of the Donor. It does not constitute an agreement under section 6(3)(d) of the National Audit Act 1983 such as to make the Contractor the subject of auditing under that Act.
- 14.5. In addition to where an audit is imposed on the Donor by a Regulatory Body (in which case the Donor may carry out the audit required without prejudice to its other rights) the Donor may conduct an audit:
- to review the integrity, confidentiality and security of the Donor's Data;
  - to review the Contractor's compliance with the Data Protection Act 1998, the Freedom of Information Act 2000 in accordance with the Agreement and any other legislation applicable to the Services.
- 14.6. Subject to obligations of confidentiality under this Agreement, the Contractor shall on demand provide Cardno with all reasonable co-operation and assistance in relation to each audit, including:
- all information requested by Cardno within the permitted scope of the audit;
  - reasonable access to any Sites controlled by the Contractor and to any equipment used (whether exclusively or non-exclusively) in the performance of the Services;
  - reasonable access to Subcontractors throughout the supply chain;
  - access to the Contractor's system;
  - access to the Contractor's Personnel.
- 14.7. Where it is found by Cardno that any overpayment has been made to the Contractor the Contractor shall reimburse Cardno such amount within 28 days of the date of Cardno's written demand.
- 14.8. We or the Donor may conduct audits relevant to the performance of any of your obligations under this Agreement.
- 14.9. Where we or the Donor has reasonable concerns regarding your financial management system, we must provide you with written notification of those concerns and what action may be required, including but not limited to, an independent audit conducted by a suitable organisation.
- 14.10. You are required to respond to any notice within 14 business days. If you do not respond, or your response does not alleviate our concerns, we may direct you to engage an independent auditor.
- 14.11. If we or the Donor directs you to undertake an independent audit under this **Clause 14**:
- the terms of reference must be agreed in writing by us, including the level of assurance required from the audit;
  - the terms of reference must include explicit acknowledgement of us and the Donor as a party who will place reliance on the conduct of the audit and the contents of the audit report;
  - the audit must be undertaken according to the relevant professional auditing standards and those standards must be detailed in the terms of reference;
- you will bear the total cost of the audit; and
  - we will not make any further payments owed to you pending certification of the reliability of your financial management systems and the veracity of the invoicing procedures and practices.
15. **Transparency**
- 15.1. The parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the Freedom of Information Act 2000 (Clause 28), the content of this Agreement is not confidential information. DFID shall be responsible for determining in its absolute discretion whether any of the content of the Agreement is exempt from disclosure in accordance with the provisions of the FOIA.
- 15.2. The Contractor acknowledges that DFID endorses/supports the requirements of the IATI standard and shall assist and cooperate with Cardno to understand the different elements of IATI implementation and to comply with the different data, policy and technical considerations that need to be taken into account.
- 15.3. The Contractor shall:
- Provide Cardno with information data to the IATI standard, that relates to a specific activity in a single, common, electronic format for the transparent, accurate, timely and comprehensive publishing of data, on all activities in the supply chain, in the delivery of development cooperation and humanitarian aid, in a format approved by us;
  - provide all necessary assistance to Cardno when reasonably requested by DFID to enable DFID to respond to the IATI requirements.
16. **Discrimination**
- 16.1. You or your Personnel shall not unlawfully discriminate either directly or indirectly against protected characteristics such as race, colour, ethnic or national origin, disability, sex or sexual orientation, religion or belief, or age and without prejudice to the generality of the foregoing you or your Personnel shall not unlawfully discriminate within the meaning and scope of the provisions of all relevant legislation including the Equality Act 2010, the International Development (Gender Equality) Act 2014 or other relevant or equivalent legislation, or any statutory modification or re-enactment thereof.
- 16.2. You or your Personnel shall adhere to the current relevant codes of practice or recommendations published by the Equality and Human Rights Commission. You or your Personnel shall take all reasonable steps to secure the observance of these provisions and codes of conduct by all of your suppliers, employees or agents and all suppliers and Sub-contractors employed in the execution of this Agreement.
- 16.3. You and your Personnel will comply with any request by DFID to assist DFID in meeting its obligations under the Equality Act 2010 and to allow DFID to assess the Supplier's compliance with its obligations under the Equality Act 2010.
- 16.4. Where any investigation is concluded or proceedings are brought under the Equality Act 2010 which arise directly or indirectly out of any act or omission by you, your Personnel, agents or sub-contractors and where there is a finding against you in such investigation or proceedings, you will



indemnify DFID with respect to all costs, charges and expenses (including legal and administrative expenses) arising out of or in connection with any such investigation or proceedings and such other financial redress to cover any payment DFID may have been ordered or required to pay to a third party.

**17. Work Health and Safety**

- 17.1. The Contractor must perform its, and must ensure that its Personnel and its subcontractor's Personnel, perform their, obligations under this Agreement in strict compliance with applicable work health and safety (WHS) laws, standard and policies and are able to participate in:
- (a) any necessary inspections of work in progress;
  - (b) any necessary consultation with Cardno regarding implementation of WHS provisions; and
  - (c) tests and evaluations of the Goods and Services.
- 17.2. The Contractor agrees, when using the Donor'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 the

Donor or as might be inferred from the use to which the premises or facilities are being put.

- 17.3. Without limiting any other provision of this Agreement, the Contractor agrees to, on request, give all reasonable assistance to Cardno, by way of provision of information and documents, to assist Cardno to comply with the obligations under of any WHS law.
- 17.4. The Contractor acknowledges that we may direct you to take specified measures in connection with the Contractor's work under this Agreement that we consider 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.
- 18. Publication attribution**
- 18.1. The Contractor agrees that if the Contractor publishes any articles based wholly or partly on work conducted under this Contract the Contractor will appropriately acknowledge the Project (as appropriate) and UKAid as funders of the work. This obligation applies beyond the life of this Contract.
- 18.2. This Clause 19 of Schedule 1 shall survive the termination of this agreement

## Schedule 2 Definitions and Interpretations

**Accommodation:** Means the accommodation and terms of accommodation set out in **Schedule 4**.

**Agreement:** Means this Agreement including the recitals, schedules and annexures (if any).

**Agreement Details:** Means the summarised details noted at the front of this Agreement that are unique to this Agreement.

**Agreement Terms:** Means the terms and conditions on which we engage you.

**Assignment:** Means the Assignment or Position Title named at **Item 4** of the **Agreement Details** and described in **Schedule 3**.

**Cardno:** Means Cardno Emerging Markets (UK) Ltd  
Registration No: 1445342.

**Cardno Manager:** Means Cardno's Area Manager or Business Unit Manager or nominee named in **Item 18** of the **Agreement Details**.

**Confidential Information:** Means any and all information disclosed to or acquired by the Contractor or Contractor's Personnel or Contractor's subcontractors from Cardno, the Donor or any other party for or in connection with the Agreement, but excludes information which is in or becomes part of the public domain otherwise than through breach of this Agreement or an obligation of confidence owed to Cardno or the Donor.

**Conflict of Interest:** Conflict of Interest is a situation in which the impartiality of a person in discharging their duties could be called into question because of the potential (perceived or actual) influences of personal considerations whether these are financial or other. The conflict in question is between official duties and obligations on the one hand, and private interests on the other.

**Contract Material:** Means all Material created or required to be developed or created on or following the commencement of the term of this Agreement as part of, or for the purpose of the Contractor performing the Services.

**Contractor:** Means the organisation named in **Item 7** of the **Agreement Details**.

**Contractor Confidential Information** means information that is by its nature confidential, but does not include this Agreement or information which is or becomes public knowledge other than by breach of this Agreement or any other confidentiality obligation.

**Contractor Personnel:** Means personnel either employed by the Contractor or Associates, engaged by the Contractor or Associates on a subcontract basis, including the Specified Personnel, or agents of the Contractor or Associates engaged in the provision of the Services.

**Criminal Record Check:** Means a check of an individual's criminal history record, conducted by the police or other authority responsible for conducting such checks.

**Debts:** Means unpaid personal accounts and funds withdrawn from the Project.

**Donor:** Means the Donor named in **Item 6** of the **Agreement Details**.

**Expert:** Means an individual who provides advice on the strategic direction or implementation of an international development assistance program and is engaged under this Agreement. This includes:

- (a) individuals who provide technical expertise and advice to counterpart governments and/or other in-country development partners;

- (b) individuals who provide technical advice to the Donor; or
- (c) individuals who provide leadership and oversight or technical inputs for the delivery of the Project;
- (d) individuals engaged by you as employees or subcontractors and individuals engaged by your subcontractors,
- (e) but does not include:
- (f) locally engaged staff employed in non-specialist roles associated with this Agreement, including staff engaged in administrative or logistical roles; or
- (g) your head office staff or contractor representatives.

**Expert Information:** Means the information requested by the Donor in accordance with **Schedule 1 Clause 9.1**. Expert Information may be Personal Information.

**Fraud:** Fraud or 'Fraudulent Activity' means dishonestly obtaining a benefit, or causing a Loss, by deception or other means, and includes alleged, attempted, suspected or detected fraud.

**Head Contract:** Means the Contract between Cardno and Cardno's Donor.

**Intellectual Property:** Means all intellectual property rights including copyright and all rights in relation to inventions (including patent rights), trademarks, designs and confidential information, and any other rights resulting from intellectual activity in the industrial, scientific, literary and artistic fields recognised in domestic law anywhere in the world.

**Location:** Means the location where the Assignment is to be performed, set out in **Item 11** of the Agreement Details.

**Long Term Expert / Consultant or 'LTE':** Means an expert working for four (4) months or longer on the Project.

**Material:** includes property, equipment, information, data, documentation or other material in whatever 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 a personal right independent of an author's economic rights; moral rights include the right to claim authorship of a work (right of attribution) and to object to modifications of the work such as distortion, mutilation, or other derogatory action in relation to the work that would be prejudicial to the author (right of integrity) and a right not to have authorship falsely attributed.

**Notice Addresses:** For Cardno this means the addresses as noted on the front cover. For the Contractor this means the address set out in **Item 9** of the **Agreement Details**.

**Parties:** Means the two signatories to this Agreement.

**Partner Country:** Means the country or countries set out in **Item 12** of the **Agreement Details** in which the Services are to be delivered.

**Personal Information:** information or an opinion (including information or an opinion forming part of a database), whether true or not and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

**Personnel (your Personnel):** means personnel either employed by your or your Associates, engaged by you or your Associates on a subcontract basis, including the Specified Personnel, or agents of you or your Associates engaged in the provision of the Services.

**Point of Origin:** This is the point from which you are contracted and from where you depart to commence the Assignment.

**Pre-existing Contractor Material:** Means any Material developed by the Contractor that:

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

**Prohibited Act:** has the meaning

- (a) to directly or indirectly offer, promise or give another person working for or engaged by DFID a financial or other advantage to:
  - i include that person to perform improperly a relevant function or activity; or
  - ii reward that person that person for an improper performance of that relevant function or activity.
- (b) To directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Agreement;
- (c) An offence:
  - i Under the Bribery Act 2010 (or any legislation repealed or revoked by such Act);
  - ii Under legislation or common law concerning fraudulent acts; or
  - iii Defrauding, attempting to defraud or conspiring to defraud DFID; or
- (d) Any activity, practice or conduct which would constitute one of the offences listed above if such activity, practice or conduct had been carried out in the UK.

**Project:** Means the Project and Activity named in **Item 4** of the **Agreement Details**.

**Project Director:** Means Cardno's Project Director or Contractor Representative or nominee named in **Item 19** of the **Agreement Details**.

**Project Office:** Means Cardno's Project Office in the Recipient Country from which administrative matters relevant to the Project are handled by Cardno

**Reasons Beyond our Control:** This term may also be referred to as 'force majeure'. For the purposes of this Agreement, 'reasons beyond our control' means conditions beyond Cardno's reasonable control. This may include any act of God or terrorism, war, fire, flood, strikes, lockouts, delays in transport, breakdowns in machinery, restrictions or prohibitions by any government or semi-government authority, embargoes, or any conditions affecting Cardno's ability to comply with its obligations under its Head Contract with its Donor. A Force Majeure Event shall not include the following: (a) any event caused by the negligence or intentional action of the party wishing to claim that the event is a Force Majeure Event or any event caused by such party's agents or employees or (b) any event which a diligent person with the expertise, resources and experience of the party wishing to claim that the event is a Force Majeure Event could reasonably have been expected to (i) take into account at the time that this Agreement was entered into or (ii) avoid or overcome.

**Recipient Organisation:** Means the organisation or agency, whether a private entity or government agency that is the recipient of the services provided under the Agreement.

**Remuneration:** Means the remuneration set out in **Schedule 4**.

**Security Policy:** means DFID's security policy, which can be accessed on DFID's website at <http://www.dfid.gov.uk/work-with-us/procurement/dfid-information-security-policy-for-contractorsconsultants/> or as notified to the Supplier from time to time

**Terms of Reference:** As noted at **Schedule 3** sets out your duties, responsibilities and obligations under this Agreement.

**Services:** Means Services to be performed under this Agreement and referred to in **Schedule 3**.

**Short Term Expert / Consultant or 'STE':** Means an expert working on the Project for less than four (4) months.

**Specified Personnel:** Means the Contractor Personnel who are identified in **Schedule 3** and **Schedule 4**.

**Successor Body:** means a body which is not a Central Government Body or if a body which is not a Central Government Body succeeds the Authority;

**Supply:** For the purposes of invoicing of VAT, Supply includes all services and/or materials supplied under this Agreement.

**Team Leader:** Means the person named at **Item 20** of the **Agreement Details** or otherwise nominated by Cardno from time to time as being in charge of experts, consultants and contractors working on the Project.

**Team Leader's Delegate:** Means the person the Team Leader delegates responsibility for day to day management of the project as named in named in **Item 21** of the **Agreement Details**. The Team Leader's delegate is the first point of contact for day to day management of this Agreement.

**VAT:** Value Added Tax

### Schedule 3 Terms of Reference

1. As a contractor on this Project you may work in a team with colleagues, counterpart agency staff, and our locally engaged staff. This will require you to establish and maintain harmonious and effective relationships and to undertake your duties to a high professional standard.
2. You will faithfully represent the best interests of Cardno in all matters when dealing with the Donor, counterparts, and team members.
3. You will use and hand out only business cards approved by Cardno.
4. You will be responsible to the Project Director through the Team Leader, or delegate, on site.
5. You will undertake and complete the duties prescribed in the Specific Terms of Reference. Completion will be within the specified time frame to achieve the Project's objectives and contractual milestones. Meeting milestones on time is a condition for satisfactory completion of your Assignment for payment purposes.
6. Your duties will include the preparation of reports and other documentation required to satisfy our contractual

undertakings to the Donor. We will provide you with the required document formats. If amendments to reports are necessary you will be expected to make the changes promptly and to the required standard.

7. During your Assignment it could be expected that you will make presentations to us, Partner country agencies, our Donor and other agencies on matters related to your duties.
8. .
9. Your duties may be varied from time to time by the Team Leader or Project Director to meet changing project needs. No changes shall be made unless agreed to by both parties and reflected in a variation or amendment to this Agreement where necessary.

#### Specific Terms of Reference

[This section (to be inserted for each Agreement) will be as per the Terms of Reference approved by our Donor. It will also specify or refer to specifications required for any report(s)]

## Schedule 4 Basis of Payment

[This Basis of Payment should be amended to reflect the type of Agreement.]

Milestone Only Agreement – Delete Clauses 3 and 4.

Milestone plus Reimbursable Expenses Agreement – Delete Clause 3.

Input based Agreement. Delete Clause 2.

Update clause 1.2 to reflect type of Agreement.

Corresponding tables to be deleted.

Clause references and table references to be checked after deleting clauses.

[Project Manager/Director to amend as appropriate. Careful attention should be paid to ensure that these clauses accurately reflect the Head Contract]

### 1. Maximum Amount Payable

[Project Manager/Director to amend as appropriate. Careful attention should be paid to ensure that these clauses accurately reflect the Head Contract]

- 1.1. The maximum amount payable by Cardno to the Contractor shall not exceed the sum of **GBPxxxx** plus UK VAT, if any to a maximum of **GBPxxxx**.
- 1.2. The maximum amount payable is comprised of the following elements:
  - (a) Fixed Fee (see **Clause 2**);
  - (b) Expert Fees (see **Clause 3**); and
  - (c) Reimbursable expenses (see **Clause 4**).
 [Delete from a, b, c as appropriate for the relevant type of Agreement.]
- 1.3. Cardno shall not be liable for any Costs or expenditure incurred by the Contractor in excess of this amount.

### 2. Fixed Fee

[Project Manager/Director to amend as appropriate. Careful attention should be paid to ensure that these clauses accurately reflect the Head Contract]

- 2.1. The maximum amount payable to the Contractor as a Fixed Fee shall not exceed the sum of **GBPxxxx** (excluding UK VAT).
- 2.2. The Fixed Fee is calculated on the basis of the items listed in **Table 1** of this **Schedule 4**.
- 2.3. Cardno shall pay the Fixed Fee specified in **Table 1** as Milestone Payments in accordance with **Table 2** of this **Schedule 4**.
- 2.4. 100% of the Fixed Fee will be paid to the Contractor in the form of Milestone Payments as shown in **Table 2** to this **Schedule 4** following written acceptance of the satisfactory completion of identified deliverables.
- 2.5. The criteria for 'satisfactory completion' of an identified deliverable will be as specified in **Table 2** to this **Schedule 4** as the 'Means of Verification'.
- 2.6. It is Cardno's corporate practice to inform Contractors as soon as reasonably possible, and in any case within 30 calendar days of receipt of notice of the completion of an identified deliverable or provision of a report whether or not that deliverable or report is accepted.
- 2.7. The Milestone Payment amount payable to the Contractor will be paid within 30 calendar days of Cardno's receipt of a correctly rendered invoice.
- 2.8. Where a Milestone Payment is to follow acceptance of a report, Cardno shall not be obliged to make

payment until all of the outputs to be achieved by the Contractor in the period covered by the report have been achieved.

- 2.9. A payment by Cardno is not an admission of liability. In the event that Cardno makes a payment for the completion of a Payment Milestone or the procurement of Supplies or inputs that Cardno subsequently learns have not been completed to the quality or performance specifications required or provided as required, the payment shall be deemed an overpayment and recoverable from the Contractor. Without limiting recourse to other available remedies, the overpayment may be offset against any amount subsequently due to the Contractor.
- 2.10. Dates for Milestone deliverables as shown in Table 2 may be amended with written approval from the Project Director. (No contract amendment is required). No other changes are permitted to Table 2 without a contract amendment.

### 3. Expert Fees

[Project Manager/Director to amend as appropriate. Careful attention should be paid to ensure that these clauses accurately reflect the Head Contract.]

- 3.1. Cardno shall pay the Contractor up to a maximum of **GBPxxxx** (excluding UK VAT) for Expert Costs as specified in **Table 3** of this **Schedule 4**.
- 3.2. For each Short Term Expert Cardno shall pay the Contractor, at the end of each month [change duration as appropriate], in arrears within 30 calendar days of its receipt of a correctly rendered invoice, the Fee Rate as specified in **Table 3** of this **Schedule 4**. The Fee rate shall be inclusive of the following items:
  - (a) base salary;
  - (b) overseas inducements and/or allowances;
  - (c) leave allowances;
  - (d) bonuses;
  - (e) profit;
  - (f) taxes;
  - (g) insurances;
  - (h) superannuation;
  - (i) non-working days; and
  - (j) all other costs including, but not limited to:
    - (i) clothing
    - (ii) passports
    - (iii) visas and vaccinations
    - (iv) overheads; and
    - (v) expenses of whatsoever nature that may be incurred by the Supplier in the delivery of the Services, except where otherwise specifically provided for in this Agreement.
- 3.3. You must keep detailed timesheets for your Personnel and your subcontractors in a form to be approved by us.

### 4. Reimbursable Costs

[Project Manager/Director to amend as appropriate. Careful attention should be paid to ensure that these clauses accurately reflect the Head Contract.]

- 4.1. Cardno shall reimburse the Contractor at actual cost up to a maximum of **GBPxxxx** (excluding UK VAT) for Reimbursable Costs as specified in **Table 4** of this **Schedule 4**.
- 4.2. Cardno shall pay the Contractor, monthly [change duration as appropriate] on a reimbursable basis in arrears Reimbursable Costs for the items listed in **Table 4** of this **Schedule 4**.

- 4.3. The reimbursable limitations and basis for the following items to claim reimbursement are:
- (a) **Airfares:** reimbursed at a maximum of standard economy class. Any travel undertaken at cheaper rates (e.g. discount fares) does not entitle the Supplier to reimbursement of the cost of any higher class of travel. Travel must be via the most direct and cost effective route. The used ticket stubs and boarding passes and any relevant receipts must be submitted to Cardno for accounting and invoicing purposes.
  - (b) **Hotel Accommodation:** reimbursed at actual costs to the limits specified lesser of actual cost incurred or the upper limit specified in amount specified in **Table 7** of this **Schedule 4**.
  - (c) **Subsistence costs:** will be reimbursed at actual cost up to the limits specified in in **Table 7** of this **Schedule 4**.
  - (d) **Provisional Budgets:** are shown as an upper limit in in **Table 7** of this **Schedule 4**. Written permission from Cardno is required in advance of expenditure incurred against this budget line.
  - (e) [Project Manager/Director to amend as appropriate. Items above to be deleted, or additional items appended as required. Careful attention should be paid to ensure that these clauses accurately reflect the Head Contract.]
- 4.4. Funds may be moved between the different categories in Table 4, with written approval from

Cardno (no Agreement amendment required), provided the combined upper limit in **Clause 4.1** is not exceeded.

#### 5. Claims for Payment

- 5.1. The Contractor's tax invoice must be submitted when due pursuant to this **Schedule 4** in a form identifiable with the Services.
- 5.2. All tax invoices must include a certification by a Company director of the Contractor, or their delegate:
  - (a) that the invoice has been correctly calculated;
  - (b) that the Services included in it have been performed in accordance with this Agreement; and
  - (c) that the invoice is addressed to the Cardno Project Director.
- 5.3. All claims for payment must be made out to:
 

[Cardno Emerging Markets \(UK\) Ltd](#)  
[Level 5 Clarendon Business Centre,](#)  
[42 Upper Berkeley Street,](#)  
[Marylebone,](#)  
[London, W1H 5PW](#)  
 Telephone: (+44) 1844 216500  
 Facsimile: (+44) 1844 261593
- 5.4. Tax invoices should be sent to the above address. Alternatively, Cardno will accept electronic tax invoices. These can be emailed to [\[add email address\]](#).
- 5.5. Invalid tax invoices will be returned to the Contractor.

**Table 1: Fixed Fee Breakdown (for full Term of the Agreement) (Clause 2)**

Items					Totals (GBP)
<b>Fee Component of Fixed Fee</b>					
Position Title	Expert	No of Days Input	Fee Rate		
<b>Subtotal Fee Component</b>					
<b>Expenses Component</b>					
Item	Description / Comment	Unit	No of Units	Unit Price	Totals (GBP)
<b>Subtotal Expenses Component</b>					
<b>TOTAL</b>					

**Table 2: Milestone Payments (Clause 2)**

No.	Milestone Deliverable	Means of Verification	Due Date	Upper limits payable (GBP)
1		Written approval of the Report from Cardno via Milestone Approval Form.		
2				
3				
4				
5				
<b>TOTAL</b>				

**Table 3: Expert Fees (Clause 3)**

Position Title	Expert	Max. No of Days Input	Daily Fee Rate	TOTAL (GBP)
<b>Total Adviser Fees</b>				

**Table 4: Reimbursable Costs (Clause 4) [Please check against Head Contract for applicability]**

No.	Item	Unit	No of units	Cost per unit (GBP)	Upper limits payable (GBP)
1	Airfares (Economy Class)	Flights			
2	Hotel Accommodation	Night			
3	Subsistence Allowance	Day			
4					
5					
6					
7					
8					
9					
10					
11					
<b>TOTAL</b>					