



Australian Government
**Australian Centre for
International Agricultural Research**

ANNEX 1

**Standard Conditions for Small R&D Activities
between the
Commonwealth of Australia
represented by the
Australian Centre for International Agricultural Research
and the
Commissioned Agent (International)**



Part of Australia's development
assistance program

www.aciar.gov.au

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Standard Conditions for Small R&D Activities

between the

Commonwealth of Australia represented by the Australian Centre for International Agricultural Research (“ACIAR”)

and the

Commissioned Agent

ACIAR is an Australian Government agency that operates as part of Australia's Aid Program within the portfolio of Foreign Affairs and Trade. It contributes to the aid program objectives of advancing Australia's national interest through facilitating research to underpin poverty reduction and sustainable development.

ACIAR has developed the Standard Conditions which are the foundation of agreements for the research partnerships it facilitates. These Standard Conditions must be read in conjunction with the Letter of Agreement and the SRA Document (which together form the SRA Agreement).

THE PARTIES AGREE AS FOLLOWS:

Whereas:

ACIAR has requested certain research services to be carried out and the Commissioned Agent has agreed to provide the services in order to complete the Small R&D Activity (SRA) on the terms of the SRA Agreement.

1. Interpretation

1.1 **Definitions.** Unless a contrary intention appears, in these Standard Conditions the following definitions apply:

ACIAR project management system	means the collaborative project site that lets the Project Leader, and other members of the Commissioned Agent, share documentation and respond to tasks allocated by ACIAR;
Acquittal	means the provision of an accurate report on funded activities, providing a breakdown of what the funds have been spent on and assurance that they have been spent on the intended purpose and in accordance with the terms of the SRA Agreement.
Act	means the <i>Australian Centre for International Agricultural Research Act 1982 (Cth)</i> ;
Annual Report	means the annual report on the SRA to be delivered to ACIAR;
Background IP	means Intellectual Property that is in existence prior to the date of this Agreement; or is brought into existence independently of this SRA, and which is used in, or is otherwise required for the use of, the SRA IP;
Budget	means the financial document as part of the SRA that details the high level application and distribution of funds within the Project.
Commissioned Agent	means the person named as the Commissioned Agent in the SRA Letter of Agreement who by executing and returning a duplicate of the SRA Letter of Agreement to ACIAR has undertaken to provide the Services in accordance with the SRA Agreement;
Commonwealth	means the Commonwealth of Australia;

Confidential Information	<p>means information that is by its nature confidential and:</p> <ul style="list-style-type: none"> a) is designated by a party as confidential; or b) the other party knows or ought to know is confidential; <p>but does not include information which:</p> <ul style="list-style-type: none"> c) is or becomes public knowledge other than by: <ul style="list-style-type: none"> (i) breach of the SRA Agreement; or (ii) any other unlawful means; d) is in the possession of a party without restriction in relation to disclosure before the date of receipt from the other party; e) has been independently developed or acquired by the other party; f) is contained in any clause, provision or Item of, or Schedule or Attachment to, the SRA Agreement; g) by law is required to be disclosed including under court subpoena, parliamentary order, under the <i>Freedom for Information Act</i> 1982 (Cth) or as part of discovery during legal proceedings; or h) is required to be disclosed to any government agency, authority, department or Minister, or to any parliamentary committee, <p>and the burden of establishing any exceptions referred to in subclauses (c) to (h) above is on the other party;</p>
Expended Funds	means the sum of all paid and incurred expenditure;
Final Acquittal	means the financial Acquittal at the end of a SRA of all amounts not acquitted in previous financial Acquittals;
Final Report	means the final report on the SRA which must be delivered to ACIAR;
Financial Limitation	means the total amount of funds payable by ACIAR to the Commissioned Agent for the Services specified in the SRA Letter of Agreement or as amended by a Letter of Variation.
Financial Year	means the period from 1 July to 30 June of the following year;
Fraud	against the Commonwealth is defined as 'dishonestly obtaining a benefit, or causing a loss, by deception or other means;
Intellectual Property	<p>means all intellectual property rights, whether or not such rights are registered or capable of being registered, including the following:</p> <ul style="list-style-type: none"> (a) patents and inventions, plant varieties, copyright, rights in circuit layouts, designs, trade marks (including goodwill in those marks), trade secrets and knowhow, and domain names; (b) any application or right to apply for registration of any of the rights referred to in paragraph (a); and (c) all rights of a similar nature to any of the rights in paragraphs (a) and (b) which may subsist in Australia or elsewhere;
Letter of Agreement SRA	means the letter forwarded by ACIAR to the Commissioned Agent offering to enter into an agreement with the Commissioned Agent to perform the Services on the terms set out in the SRA Agreement;
Material	means any subject matter including documents, equipment, software, goods, information or data stored by any means;

Minister	means the Commonwealth Government Minister responsible for ACIAR;
Moral Rights	means the right of attribution of authorship, the right not to have authorship falsely attributed and the right of integrity of authorship granted to authors under the <i>Copyright Act 1968</i> (Cth);
Month	means a calendar month;
Net Monies Received	means all monies received by the Commissioned Agent net of any expenses that are properly paid on an arms-length basis by the Commissioned Agent in exploiting the SRA IP;
Parties	means ACIAR and the Commissioned Agent;
Payment period	means the periods: 1 January to 30 June; or 1 July to 31 December. The payment period may be reduced in length if the start or end date of the SRA Agreement falls within the period;
Person	includes a natural person, a body corporate and an unincorporated association;
SRA (Small R&D Activity)	means the activity described in the SRA Document and referred to in the SRA Letter of Agreement;
SRA (Small R&D Activity) Agreement	means the Letter of Agreement between ACIAR and the Commissioned Agent, these Standard Conditions and the SRA Document;
SRA Document	means the document including budget which was provided to ACIAR by the Commissioned Agent in relation to the SRA and which document has been approved by ACIAR. The active version of the SRA Document including budget is that which appears on the ACIAR projects management system;
SRA IP	means Intellectual Property that is brought into existence by or on behalf of the Commissioned Agent as a result of performing the Services under the SRA Agreement;
Services	means the tasks to be performed by the Commissioned Agent as set out in the SRA Agreement;
Specified Personnel	means professional, technical, support and administrative staff who have been nominated in the SRA Document by the Commissioned Agent to perform all or part of the Services;
Standard Conditions	means the terms set out in this 'Standard Conditions for SRA Agreements' document from clauses 1 to 29;
Unexpended Funds	means all funds remaining after deducting funds expended in accordance with the SRA Agreement, including the Project Document and the Budget;
Withholding Payment	means the amount withheld by ACIAR from the final payment for the Services pending receipt of a satisfactory Final Report;
Works	means the copyright material licensed to ACIAR under clause 10.8.

1.2 **Interpretation.** Unless a contrary intention appears, in these Standard Conditions:

- (a) words imputing a gender include any other gender;
- (b) the singular includes the plural and vice versa;
- (c) another grammatical form of a defined word or expression has a corresponding meaning;

- (d) a reference to a statute or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (e) a reference to a document includes the document as novated, altered, supplemented or replaced from time to time;
- (f) a reference to a person includes the person's permitted successors, substitutes (including persons taking by novation) and assigns;
- (g) a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;
- (h) "including", "includes", "such as" and "in particular" do not limit the generality of the words which precede them or to which they refer;
- (i) any agreement, representation, warranty or indemnity by two or more parties (including where two or more persons are included in the same defined term) binds them jointly and severally;
- (j) any agreement, representation, warranty or indemnity in favour of two or more parties (including where two or more persons are included in the same defined term) is for the benefit of them jointly and severally;
- (k) a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of these Standard Conditions or the Letter of Agreement;
- (l) paragraph headings are inserted for convenient reference only and have no effect in limiting or extending the language of provisions to which they refer;
- (m) all references to dollars are to Australian dollars; and
- (n) a reference to a "clause" is a reference to a clause in these Standard Conditions and a reference to "Schedule" is a reference to a Schedule to these Standard Conditions.

2. Services

- 2.1 The Commissioned Agent shall perform the Services within the period for performing the Services specified in the Letter of Agreement and the SRA Document and in accordance with the SRA Agreement.
- 2.2 The Parties acknowledge and agree that from time to time there may be events which delay the Commissioned Agent's ability to perform its obligations under the SRA Agreement which are beyond the reasonable control of the Commissioned Agent. The Parties agree to deal with such unavoidable delays as follows:
 - (a) the Commissioned Agent shall:
 - (i) notify ACIAR in writing as soon as it becomes aware of any event which it believes will delay its ability to perform its obligations under the SRA Agreement and which it believes are beyond its reasonable control; and
 - (ii) specify all the facts and circumstances which have caused the Commissioned Agent to form the view that there will be a delay, and the delay is unavoidable and is beyond the reasonable control of the Commissioned Agent;
 - (b) where there is likely to be a delay in performance of the Commissioned Agent obligations, ACIAR shall not exercise its rights and remedies for default under clause 16.6 of these Standard Conditions or under common law:
 - (i) before considering all the facts and circumstances relating to the delay; and
 - (ii) if it accepts that the delay has been caused by an act, omission or event beyond the reasonable control of the Commissioned Agent, or was not reasonably foreseeable at the time the SRA Agreement was executed;
 - (c) if ACIAR accepts that the delay was unavoidable, the Parties shall use their best endeavours to resolve the causes of the delay, including but not limited to, adjusting the SRA Document and any relevant timeframes;
 - (d) if the causes of the delay cannot be resolved within 3 months, ACIAR may terminate the SRA Agreement in accordance with clause 16.6.

3. Sub-contracting

- 3.1 The Commissioned Agent shall not, without the prior written approval of ACIAR, subcontract the performance of any part of the Services that, or engage a subcontractor who, was not expressly specified in the initial approved SRA Document. Where ACIAR approves subcontracting, either as part of the initial approved SRA Document or as a result of a subsequent request by the Commissioned Agent to vary the Project, the Commissioned Agent shall comply with any terms imposed by ACIAR. Any failure by a Commissioned Agent or its subcontractor to comply will entitle ACIAR to terminate the SRA Agreement in accordance with clause 16.
- 3.2 The Commissioned Agent shall be fully responsible for the performance of the Services notwithstanding that the Commissioned Agent has sub-contracted the performance of any part of those Services.
- 3.3 Where requested the Commissioned Agent shall provide a copy of any such sub-contract to ACIAR within 7 days of its execution.

4. Term of SRA Agreement

- 4.1 The SRA Agreement shall commence on the date specified in the SRA Letter of Agreement.
- 4.2 An SRA Agreement may be extended where ACIAR determines that sufficient reason exists to do this and the Parties so agree in writing.

5. Payment

- 5.1 The total amount of funds payable by ACIAR to the Commissioned Agent for the Services is the Financial Limitation specified in the SRA Letter of Agreement.
- 5.2 In performing the Services the Commissioned Agent shall not incur expenditure in any period in excess of the funds payable for that period in accordance with clause 5.4 without the prior written approval of ACIAR.
- 5.3 Unless otherwise agreed by the Parties in writing, ACIAR shall in no way be liable for any additional costs incurred for services performed by the Commissioned Agent outside the scope of the Services.
- 5.4 Subject to clause 5.1, in consideration of the performance of the Services by the Commissioned Agent, ACIAR agrees, subject to appropriation being made by the Parliament of the Commonwealth, to pay from the Australian Centre for International Agricultural Research Official Departmental Account to the Commissioned Agent the funds specified in the SRA Document.
- 5.5 ACIAR shall pay the Commissioned Agent in advance during the term of the SRA Agreement the funds referred to in clause 5.4 in accordance with the budget for the SRA set out in the SRA Document as follows:
 - (a) each payment shall only be made following ACIAR's receipt of:
 - (i) a satisfactory written report as detailed in clause 5.7, for the previous period; and
 - (ii) where required by clause 15.1, a satisfactory Annual Report.
 - (b) any funds that are unexpended by the Commissioned Agent at the expiration of the period for which they were allocated shall be carried over for expenditure in the following period and the advance made for the following period by ACIAR to the Commissioned Agent shall be reduced accordingly, unless ACIAR approves otherwise in writing.
- 5.6 Notwithstanding clause 5.5, ACIAR shall withhold from the final payment a Withholding Payment of A\$20,000 pending acceptance of a satisfactory Final Report as detailed in clause 15. The Withholding Payment shall be made to the Commissioned Agent within thirty (30) days of ACIAR's acceptance of the Final Report. Within thirty (30) days of receipt of the Withholding Payment, the Commissioned Agent must provide a Final Acquittal for the Project including acquitting all unexpended funds.

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- 5.7 No later than 30 days after the expiration of each period for which the funds were allocated (“acquittal period”), the Commissioned Agent shall provide to ACIAR an acquittal that in the ACIAR project management system includes the following details:
- (a) the unacquitted amount from the prior period (if any), the amount received from ACIAR for the acquittal period and the amounts expended in the acquittal period;
 - (b) An explanation detailing the reasons for the delay in spending or committing funds must be provided where unexpended funds exceed 20% of available funds;
 - (c) sign-off by the Project Leader; and
 - (d) certification by an officer duly authorised by the Commissioned Agent that the amounts, reported under clause 5.7(a) above, are correct and accurately reflect expenditure which has been incurred against each item for the purposes of the Project.
- 5.8 The report to be provided under clause 5.7 must be in the form set out in the ACIAR project management system.
- 5.9 The Commissioned Agent acknowledges it is totally responsible for payment of and accounting to ACIAR for all expenses incurred in performing the Services.

6. Negation of Employment, Partnership and Agency

- 6.1 The Commissioned Agent shall not by virtue of this SRA Agreement be or for any purpose be deemed to be an officer, employee, partner or agent of ACIAR or the Commonwealth, or as having power or authority to bind or represent ACIAR or the Commonwealth, and shall not represent itself, and shall ensure that its officers, employees, agents and sub-contractors do not represent themselves, as such.

7. Personnel

- 7.1 The Commissioned Agent shall provide adequate and competent personnel to perform the Services and shall ensure that they undertake the Services in accordance with the terms of the SRA Agreement.
- 7.2 Personnel of the Commissioned Agent (including Specified Personnel, employees, agents and sub-contractors) who are undertaking Services in the Collaborating Country and who are not citizens of that country shall in no way become involved in the political affairs of the Collaborating Country. If, in the opinion of ACIAR such personnel have become involved in the political affairs of the Collaborating Country, ACIAR may require the Commissioned Agent, at its own cost, to promptly remove the personnel involved from work in respect of the Services and for their replacement with personnel of equal competence approved in writing by ACIAR prior to their appointment.
- 7.3 Where any Specified Personnel are unable to undertake work in respect of the Services, the Commissioned Agent shall notify ACIAR immediately. The Commissioned Agent shall, if so requested by ACIAR, provide replacement personnel acceptable to ACIAR at no additional charge and at the earliest opportunity.
- 7.4 ACIAR may, on reasonable grounds, give notice requiring the Commissioned Agent to remove personnel (including Specified Personnel, employees, agents and sub-contractors) from work in respect of the Services. The Commissioned Agent shall, at its own cost, promptly arrange for the removal of such personnel from work in respect of the Services and their replacement with personnel acceptable to ACIAR.
- 7.5 If the Commissioned Agent is unable to provide acceptable replacement personnel under this clause 7, ACIAR may terminate this Contract in accordance with the provisions of clause 16.
- 7.6 The Commissioned Agent shall obtain the prior written approval of ACIAR to the appointment of the Specified Personnel or any specialist or scientist to perform the Services, which approval shall not be unreasonably withheld.

8. Travel

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- 8.1 The Commissioned Agent shall provide prior written notice to ACIAR detailing all visits scheduled to a Collaborating Country by its personnel including Specified Personnel, and sub-contractors. Details of any dependants accompanying the personnel shall also be provided in the notice. The written notice is to be provided as a Travel Advice Note available on the ACIAR website (<http://aciar.gov.au/travel>).
 - 8.2 In the event it is advised that officials from the Collaborating Country involved in the Project intend to visit Australia, the Commissioned Agent shall use its best endeavours to ensure that as much notice as possible is provided to the Australian Embassy, the Australian High Commission or the Australian Consulate, as appropriate, in the Collaborating Country so that it may commence visa and other formalities.
 - 8.3 The Commissioned Agent shall provide promptly to ACIAR a copy of any such notices to the Australian Embassy, the Australian High Commission or the Australian Consulate.
 - 8.4 At the completion of the travel referred to in clause 8.1, the Commissioned Agent shall provide to ACIAR within thirty days of travel, a trip report that shall include the travel itinerary and information relevant to ACIAR's monitoring of the Project.
 - 8.5 From time to time Australians are advised for security and safety reasons not to travel to certain countries or areas within countries. The Commissioned Agent is responsible for the security and safety of any personnel it engages for the Project and should either make its own enquiries or check the Department of Foreign Affairs and Trade (DFAT) Travel Advices before Project personnel travel.
 - 8.6 Neither ACIAR nor its officers, employees or sub-contractors accept any responsibility or liability for any injury, loss, damage or expense incurred by personnel of the Commissioned Agent and/or its sub-contractors, in any circumstances and in particular, who travel in areas where security or safety risks exist or who travel against the advice of DFAT in these matters.

9. Project Equipment and Supplies

- 9.1 The Commissioned Agent shall arrange, from the funds payable by ACIAR to the Commissioned Agent for the Services, the procurement and delivery of all equipment and supplies that are specified in the Project Document.
- 9.2 The Commissioned Agent shall exercise administrative control of and maintain and keep equipment and supplies referred to in clause 9.1 in good repair.
- 9.3 The Parties agree that the ownership of equipment and supplies that are procured for the Project for the performance of the Services in Australia shall vest in the Commissioned Agent from the date of purchase.
- 9.4 The Parties agree that the ownership of equipment and supplies procured by the Commissioned Agent for the purposes of the Project in the Collaborating Country shall vest in the government of the Collaborating Country at the completion of the project.
- 9.5 Unless otherwise agreed in writing, the Commissioned Agent shall effect with reputable and substantial underwriters and maintain insurance against all loss or damage to the Project equipment referred to in clause 9.1 until the Services are completed.
- 9.6 Notwithstanding clause 9.5, the Commissioned Agent may undertake self-insurance arrangements with ACIAR's prior written approval.

10. Intellectual Property

- 10.1 Unless otherwise expressly agreed in writing by the Parties, this Agreement does not affect the ownership of Background IP. The Commissioned Agent grants to ACIAR or shall secure the grant of a permanent, irrevocable, royalty free, worldwide, non-exclusive licence (including a right to sublicense its rights to third parties) to use, reproduce, modify, publish, adapt, communicate to the public and exploit Background IP in conjunction with SRA IP.
- 10.2 The Commissioned Agent warrants that to its actual knowledge and belief, following all diligent and reasonable enquires, at the date of this SRA Agreement or the date on which Background IP is first used in the SRA (whichever is applicable to the circumstances):
- (a) it is the owner of, or is otherwise entitled to use, the Background IP;
 - (b) it is entitled to grant the licences under clauses 10.1 and 10.8; and
 - (c) the exercise by ACIAR of its rights under clauses 10.1 and 10.8 shall not infringe any Intellectual Property rights of any third party.
- 10.3 The Commissioned Agent shall indemnify, and keep indemnified ACIAR, its officers, employees and agents, from and against any and all liability, loss, damage, cost (including the cost of any settlement and legal costs and expenses on a solicitor/client basis), compensation or expense incurred by them arising out of any action, claim, suit, dispute, or proceeding brought by any third party in connection with the breach of the warranties set out in clause 10.2.
- 10.4 For the purposes of this clause 10, “infringe” and “infringement” means unauthorised acts which would, but for the operation of section 183 of the *Copyright Act 1968*, constitute an infringement.
- 10.5 The warranties and indemnities contained in this clause 10 shall survive the expiration or termination of the Services.
- 10.6 The Commissioned Agent shall notify ACIAR of the details of any Intellectual Property created as a result of the performance of the Services. Any notification shall be treated as Confidential Information by ACIAR.
- 10.7 The Parties agree that SRA IP shall vest in the Commissioned Agent.
- 10.8 The Commissioned Agent grants to ACIAR a permanent, irrevocable, royalty free, worldwide, non-exclusive licence (including a right to sublicense its rights to third parties) to use, reproduce, modify, publish, adapt and communicate to the public that IP.
- 10.9 The Commissioned Agent agrees that it will not sub-license or assign SRA IP without first obtaining ACIAR’s prior written consent. Despite this, a Commissioned Agent may sub-license SRA IP on a non-exclusive basis to subcontractors specified in the initial approved SRA Document without first seeking ACIAR’s approval.
- 10.10 The Commissioned Agent agrees that it shall pay to ACIAR within 30 days of the expiration of 30 June and 31 December each year 25%, or such percentage as is otherwise agreed, of Net Monies Received by the Commissioned Agent in the previous six months by way of licence fees, sale price or royalties in relation to such Intellectual Property, and this obligation of the Commissioned Agent shall continue for a period of twenty (20) years from the commencement of the SRA Agreement.
- 10.11 The Commissioned Agent shall maintain proper books of account which evidence receipt of any licence fees, sale price or royalties payable to it in respect of SRA IP and any expenses properly paid in relation thereto and ACIAR shall be granted access to those records at any time upon request. This obligation shall continue for a period of twenty (20) years from the commencement of the SRA Agreement.
- 10.12 Where the Commissioned Agent intends to publish any article or paper of an academic, scientific or technical nature in regard to the Services or the SRA, or to place any advertisement requesting applications from persons to perform any part of the Services, any such publication or advertisement must acknowledge the funding and other support provided by ACIAR in regard to the SRA.
- 10.13 The Commissioned Agent may report details of the SRA in the non-specialist media provided:

- (a) it acknowledges the funding and support provided to the SRA by ACIAR; and
- (b) in the event that the subject of the proposed media report is or may be potentially controversial, the Commissioned Agent shall, prior to submitting any information for publication, request ACIAR's written consent.

11. Moral Rights

11.1 ACIAR and the Commissioned Agent:

- (a) acknowledge the collaborative nature of the SRA and the mutual benefit derived by the Parties from the SRA;
- (b) acknowledge the existence of Moral Rights conferred on the authors of any Works which are created in carrying out the SRA or which exist as part of the Background IP;
- (c) will immediately notify the other Party in writing:
 - (i) upon becoming aware of a possible infringement of Moral Rights of an author of any Works referred to in clause 11.1(b); or
 - (ii) upon becoming aware of a claim for infringement of Moral Rights being made against a Party by an author of any Works referred to in clause 11.1(b);
- (d) will, following notice under clause 11.1(c), meet to negotiate in good faith (involving, where possible, the author of the relevant Works) the appropriate steps to resolve the matter to the satisfaction of the Parties and the author.

12. Disclosure of Information

- 12.1 The Commissioned Agent shall not, without prior written approval of ACIAR, disclose to any person other than ACIAR, any Confidential Information of ACIAR. In giving written approval.
- 12.2 ACIAR shall not, without prior written approval of the Commissioned Agent, disclose to any person other than the Commissioned Agent, any Confidential Information of the Commissioned Agent. In giving written approval, the Commissioned Agent may impose such terms and conditions as it thinks fit.
- 12.3 Either Party may at any time require the other Party to give and arrange for its employees, officers, agents and sub-contractors to give written undertakings relating to the non-disclosure of its Confidential Information. The other Party shall promptly arrange for all such undertakings to be given.
- 12.4 The obligations under this clause shall not be taken to have been breached where the information referred to is legally required to be disclosed.

13. Coordinator

- 13.1 The person designated in the SRA Document as the SRA Leader, or any person agreed in writing by the Parties to replace that person, shall be responsible for coordinating all the Services to be provided by the Commissioned Agent and this person shall liaise with ACIAR regularly in regard to the progress of the SRA.

14. Review and Evaluation

- 14.1 ACIAR may at any time undertake to review and evaluate the SRA.
- 14.2 To facilitate any review under clause 14.1 the Commissioned Agent shall promptly provide any financial, technical or such other information as is required by ACIAR and shall at all reasonable times permit persons authorised by ACIAR to have access to the premises upon which the Services are being or have been performed.

15. Report

- 15.1 For SRAs with a term longer than eighteen (18) months, the Commissioned Agent shall provide ACIAR with Annual Reports by 14 July each year until the final year. If the SRA has been active for more than five months on 14 July an Annual Report is required to be submitted. These reports must be prepared in accordance with the Guidelines for Annual Reports available on the ACIAR website (www.aciar.gov.au). The Annual Report for the final year (or part year) of the SRA should be subsumed into the Final Report.

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- 15.2 Upon the completion of the SRA in accordance with the SRA Agreement, the Commissioned Agent shall provide ACIAR with a Final Report that must be prepared in accordance with the Guidelines for Final Reports available through the ACIAR projects management system. The Final Report is due within 30 days of the completion of the SRA.
- 15.3 Where requested the Commissioned Agent shall provide ACIAR additional reports including but not limited to an Interim Final Report, Project Factsheets and/or other *ad hoc* reports in accordance with the Guidelines. The Guidelines are available through the ACIAR projects management system.
- 15.4 Where, during the development, approval and life of a SRA a Self Assessment of the potential for significant environmental impacts under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) has been accepted, the Commissioned Agent shall provide ACIAR with a Report by 14 July each year on the implementation and effectiveness of the risk management procedures identified in the Self Assessment.

16. Termination and Reduction

- 16.1 In the event of acts of God, fire, storm, flood, earthquake, explosion, accident, acts of a public enemy or terrorism, war, rebellion, insurrection, sabotage, epidemic, quarantine restrictions, industrial dispute, transportation embargo or failure or delay in transportation that render the performance of the Services impracticable or impossible either Party may, upon providing a minimum of three (3) calendar months written notice to the other, terminate the SRA Agreement.
- 16.2 In addition to clause 16.1, ACIAR may at any time by written notice, terminate the SRA Agreement, or reduce it in scope. If the SRA Agreement is terminated under clause 16.1 or 16.2, ACIAR shall be liable only for:
- (a) payments under the payment provisions of the SRA Agreement for Services rendered before the effective date of termination; and
 - (b) subject to clauses 16.3, 16.4 and 16.5 any reasonable costs incurred by the Commissioned Agent and directly attributable to the termination or partial termination of the SRA Agreement.
- 16.3 Upon receipt of a notice of termination the Commissioned Agent shall:
- (a) stop work as specified in the notice;
 - (b) take all available steps to minimise loss resulting from that termination and protect the Material; and
 - (c) continue work on any part of the Services not affected by the notice.
- 16.4 In the event of a reduction in scope, ACIAR's liability to provide funds under the SRA Agreement shall, in the absence of agreement to the contrary, abate proportionately to the reduction in the Services.
- 16.5 ACIAR shall not be liable to pay compensation in an amount that would, in addition to any amounts paid or due, or becoming due, to the Commissioned Agent under the SRA Agreement, together exceed the funds set out in the SRA Agreement. The Commissioned Agent shall not be entitled to compensation for loss of prospective profits.
- 16.6 If the Commissioned Agent fails to fulfil or is in breach of any of its material obligations under the SRA Agreement and does not rectify the omission or breach after receiving fourteen (14) days' notice in writing from ACIAR to do so, ACIAR may terminate the SRA Agreement by giving written notice to the Commissioned Agent of the termination which is effective immediately.

17. Insurance

- 17.1 The Commissioned Agent shall, for so long as any obligations remain in connection with the SRA Agreement, effect and maintain with reputable and substantial underwriters the following insurance:
- (a) in relation to work performed outside Australia, adequate insurance against claims by third parties resulting from negligent acts performed by the Commissioned Agent in carrying out the Services; and

- (b) adequate travel and medical insurance for any domestic and international travel undertaken on behalf of the SRA by its personnel including Specified Personnel.
- 17.2 Within 14 days of a written request from ACIAR, the Commissioned Agent must provide ACIAR with a copy of any insurance policy (or related Certificates of Currency) effected in accordance with this requirement and of all receipts for payments of premiums.
- 17.3 The requirement of subclause 17.1(a) does not apply in relation to work performed in a particular country if ACIAR agrees in writing that such insurance is not available in relation to the performance of the Services in that country.
- 17.4 Notwithstanding clause 17.1(a) the Commissioned Agent may undertake self insurance arrangements with ACIAR prior written approval.
- 17.5 ACIAR undertakes no responsibility in respect of loss or damage to SRA equipment or supplies or in respect of any life, accident, travel or any other insurance coverage that may be necessary or desirable for the personnel or sub-contractors of the Commissioned Agent or for the dependants of any such persons as may travel for the purposes of the Services.

18. Indemnity

- 18.1 The Commissioned Agent shall indemnify ACIAR, its officers, employees and agents from and against any loss (including legal costs and expenses on a solicitor/own client basis), or liability, incurred or suffered by any of those indemnified arising from any claim, suit, demand, action or proceeding by any person where such loss or liability was caused by any wilful misconduct or unlawful or negligent act or omission of the Commissioned Agent, its officers, employees, agents or sub-contractors in connection with the Services.
- 18.2 The Commissioned Agent's liability to indemnify ACIAR under clause 18.1 shall be reduced proportionally to the extent that any unlawful or negligent act or omission of ACIAR or its officers, employees or agents contributed to the loss or liability.

19. Waiver

- 19.1 A waiver by either Party in respect of any breach of a condition or provision of the SRA Agreement shall not be deemed to be a waiver in respect of any continuing or subsequent breach of that provision, or breach of any other provision. The failure of either Party to enforce any of the provisions of the SRA Agreement at any time shall in no way be interpreted as a waiver of such provisions.

20. Prohibited Dealings

- 20.1 The Commissioned Agent must ensure that it and any individuals, persons, entities or organisations involved in delivering Goods and or Services under this Contract, including its officers, employees, agents and subcontractors, are not:
- (a) directly or indirectly engaged in preparing, planning, assisting or fostering a terrorist act;
 - (b) listed terrorist organisations for the purposes of the *Criminal Code Act 1995* (Cth) (details of listed terrorist organisations are available at <https://www.nationalsecurity.gov.au/Listedterroristorganisations/Pages/default.aspx>);
 - (c) subject to sanctions or similar measures under the *Charter of the United Nations Act 1945* (Cth) or the *Autonomous Sanctions Act 2011* (Cth) (details of individuals and entities are available at: <https://dfat.gov.au/international-relations/security/sanctions/Pages/consolidated-list.aspx>);
 - (d) listed on the 'World Bank's Listing of Ineligible Firms and Individuals' posted at <https://www.worldbank.org/en/projects-operations/procurement/debarred-firms>;
 - (e) owned, controlled by, acting on behalf of, or at the direction of individuals, persons, entities or organisations referred to in clauses 20.1 (a) to 20.1 (d) above; or
 - (f) providing direct or indirect support, resources or assets (including any grant monies) to individuals, persons, entities or organisations referred to in clauses 20.1 (a) to 20.1 (e) above.

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- 20.2 Where the Commissioned Agent becomes aware that there are reasonable grounds to suspect it or any of its officers, employees, agents and subcontractors has or may have contravened any part of clause 20.1, the Commissioned Agent must:
- (a) notify ACIAR and confirm that information in writing as soon as possible, which must be no later than within 24 hours;
 - (b) immediately take all reasonable action to mitigate the risks; and
 - (c) take any other action required by ACIAR.
- 20.3 The Commissioned Agent must ensure that any subcontract entered into by the Commissioned Agent for the purposes of fulfilling its obligations under this Contract imposes on the Subcontractor the same obligations that the Commissioned Agent has under this clause, including this requirement to impose obligations on any further subcontractor.

21. Child safety

- 21.1 If any part of the Project involves the Commissioned Agent employing or engaging a person (whether as an officer, employee, contractor, or volunteer) that is required by State or Territory law to have a working with children check to undertake the Project or any part of the Project, the Commissioned Agent agrees:
- (a) to comply with all State, Territory or Commonwealth law relating to the employment or engagement of people who work or volunteer with children in relation to the Project, including mandatory reporting and working with children checks however described; and
 - (b) if requested, provide the Commonwealth at the Commissioned Agent's cost, an annual statement of compliance with this clause, in such form as may be specified by the Commonwealth.
- 21.2 When Child Safety obligations may be relevant to a Subcontract, the Commissioned Agent must ensure that any subcontract entered into by the Supplier for the purposes of fulfilling the Commissioned Agent's obligations under the Project Agreement imposes on the Subcontractor the same obligations regarding Child Safety that the Commissioned Agent has under the SRA Agreement. Each subcontract must also require the same obligations (where relevant) to be included by the Subcontractor in any secondary subcontracts.

22. Corruption

- 22.1 The Commissioned Agent warrants that neither it nor its Personnel will make or cause to be made, receive or seek to receive any offer, gift or payment or benefit of any kind, which could be construed as an illegal or corrupt act, either directly or indirectly to any individual or organisation in relation to the execution of this SRA Agreement. Any breach of this clause will entitle ACIAR to issue a notice under clause 16 to terminate this SRA Agreement immediately.

23. Fraud Control

- 23.1 Without derogating its obligations in the SRA Agreement, the Commissioned Agent must comply with the requirements of ACIAR's Fraud Policy Statement and guidance on reporting any allegations or concerns regarding fraud within the Project is available at <https://www.aciar.gov.au/Standard-Contract-Conditions-and-Intellectual-Property-Policy>
- 23.2 On request, the Commissioned Agent will provide for ACIAR's review and acceptance a Fraud Control Plan that details actions the Commissioned Agent will undertake in order to identify, report and manage instances by its personnel and/or third Party members including subcontractors of any Fraud and any suspected Fraud incident. The Control Plan will specify what audit procedures and audit frequency will be applied.

24. Conflict of interest

25.1 Warranty that there is no conflict of interest

The Commissioned Agent warrants that, to the best of its knowledge after making diligent inquiry, at the date of signing the SRA Agreement no conflict of interest exists or is likely to arise in the performance of its obligations under this SRA Agreement.

25.2 Notification of a conflict of interest

If, during the performance of the Services a conflict of interest arises, or appears likely to arise, the Commissioned Agent must:

- (a) notify ACIAR immediately in writing;
- (b) make full disclosure of all relevant information relating to the conflict; and
- (c) take such steps as ACIAR requires to resolve or otherwise deal with the conflict.

25. Applicable Law

- 25.1 The SRA Agreement shall be governed by and construed in accordance with the laws of the State of Victoria. The Commissioned Agent submits to the jurisdiction of the courts of Victoria and any court competent to hear appeals from those courts.
- 25.2 The Commissioned Agent shall ensure that in carrying out the Services it complies with the laws from time to time in force in the Australian State or Territory or in the country in which the Services, or any part thereof, are to be carried out.

26. Authority and consents

- 26.1 Any and all rights, powers, authorities and discretions expressed in the SRA Agreement or in the specifications to be conferred upon or vested in ACIAR may be exercised by any person designated for that purpose by the Minister.
- 26.2 Except as expressly provided in the SRA Agreement, ACIAR may conditionally or unconditionally in its absolute discretion give or withhold any consent or approval under the SRA Agreement. ACIAR will not unreasonably withhold consent.

27. Variation to the SRA Agreement

- 27.1 The SRA Document including budget is the latest approved version within the ACIAR projects management system.
- 27.2 ACIAR or the Commissioned Agent may make minor variations to the SRA Document within the ACIAR project management system. Minor variations include changes to the scope of activities and to personnel, etc.
- 27.3 Significant variations to the SRA Agreement shall be made by means of a Letter of Variation signed for and on behalf of the Parties to the SRA Agreement. A significant variation would include changes in objectives, or changes to the 'Payment Schedule' of the budget.

28. Dispute Resolution

- 28.1 Subject to clause 28.4, before resorting to external dispute resolution mechanisms, the Parties shall attempt to settle by negotiation any dispute in relation to the SRA Agreement including by referring the matter to personnel who may have authority to intervene and direct some form of resolution.
- 28.2 If a dispute is not settled by the Parties within 10 working days of one Party first sending to the other Party written notice that they are in dispute, the dispute may be the subject of court proceedings or may be submitted to some alternative dispute resolution mechanism as may be agreed in writing between the Parties.
- 28.3 Notwithstanding the existence of a dispute, each Party shall continue to perform its obligations under the SRA Agreement.
- 28.4 A Party may commence court proceedings relating to any dispute arising from this SRA Agreement at any time where that Party seeks urgent interlocutory relief.
- 28.5 This clause shall survive the expiration or termination of the SRA Agreement.

29. Survival

The following clauses survive the expiry or termination of this Agreement:

- (a) Clause 10 (Intellectual Property);

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- (b) Clause 11 (Moral Rights);
 - (c) Clause 12 (Disclosure of Information); and
 - (d) Clause 18 (Indemnity);