

Schedule 2 Labour Hire Services

PART A – SERVICES DESCRIPTION

1 Introduction

1.1 This **Schedule 2 (Labour Hire Services)** sets out all the available Services and Service Categories for the Labour Hire Services, however the Service Provider is only eligible to provide the Service Categories listed in Item 8 of **Schedule 1 (Head Agreement Details)**.

1.2 The Labour Hire Services comprise the provision of suitably qualified and appropriately skilled Personnel to undertake work in the Service Categories and relevant Job Families specified in clause 2 below, in the following situations:

- (a) where there are short-term absences;
- (b) to meet urgent unforeseeable demands or peak workloads; or
- (c) to meet specific budget allocation for particular projects,

other than services which, under clause 2.2, are out-of-scope under this Head Agreement.

2 Service Categories

2.1 The Service Provider is approved to provide only those of the Service Categories specified below that are set out in Item 8 of **Schedule 1 (Head Agreement Details)**.

#	Service Category	Job Family
1	Corporate Services	<ul style="list-style-type: none">Accounting and FinanceAdministrationCommunications and MarketingHuman Resources
2	Policy and Program	<ul style="list-style-type: none">Service DeliveryPortfolio, Program and Project ManagementPolicy

#	Service Category	Job Family
3	Data and Knowledge	<ul style="list-style-type: none"> • ICT and Digital Solutions (roles commonly listed in the ICT and Digital Solutions Job Family) • Information and Knowledge Management • Data and Research
4	Compliance and Legal	<ul style="list-style-type: none"> • Compliance and Regulation • Legal and Parliamentary • Monitoring and Audit
5	Other Workers	<ul style="list-style-type: none"> • Engineering and Technical • Intelligence • Senior Executive • Trades and Labour • Sciences and Health

3 General obligations in respect of Labour Hire Services

3.1 It is the Entity's responsibility to properly induct, supervise, manage, direct and allocate tasks to Labour Hire Workers provided to the Entity by the Service Provider. However, nothing in this clause 3.1 relieves the Service Provider from its obligations under this Head Agreement or any Contract, including obligations in respect of the conduct of Labour Hire Workers (for example, under clause 23 (Confidentiality), 24 (Security) or 25 (Privacy)).

3.2 When providing Labour Hire Services, the Service Provider must:

- (a) except in the case of Referred workers, manage the entire process of advertising for, and sourcing candidates, including conducting interviews and any other recruitment processes;
- (b) if Finance introduces a Panel Administration Platform in accordance with clause 5.5 of the Head Agreement, ensure that the Labour Hire Worker is registered in the Panel Administration Platform and has a unique ID;
- (c) where an Entity specifies a particular software system, platform or solution in a Contract, use that software system, platform or solution in relation to the provision of the Services, at no additional cost to the Entity;
- (d) ensure that all people the Service Provider provides as Labour Hire Workers are suitably qualified and appropriately skilled for the role they will be undertaking, and specifically the Service Provider must ensure that:
 - (i) all Labour Hire Workers it supplies against an APS or EL level are capable of performing to the levels and capabilities outlined in the

Integrated Leadership System (ILS) by the Australian Public Service Commission set out here: <https://www.apsc.gov.au/working-aps/aps-employees-and-managers/classifications/work-level-standards-senior-executive-service>; and

- (ii) all Labour Hire Workers it supplies against a Senior Executive Service (SES) level are capable of performing to the levels and capabilities outlined in the Work Level Standards for the Senior Executive Service by the Australian Public Service Commission set out here: <https://www.apsc.gov.au/working-aps/aps-employees-and-managers/classifications/work-level-standards-senior-executive-service>;
- (e) ensure all candidates are appropriate for the role scope, key duties and responsibilities, candidate key attributes, capabilities and/or experience for the role as outlined by the Entity;
- (f) ensure that all Labour Hire Workers act at the direction of the Entity in relation to work to be performed, and any Additional Requirements the Entity may have (e.g. relating to security, access, hours of work, confidentiality and privacy);
- (g) maintain suitable systems and processes for identifying and validating particular qualifications (educational and professional) and personal skills of candidates and validating any candidate's skills and qualifications before offering them to the Entity;
- (h) undertake database searches and sourcing activities based on the requirements identified in any RFQ and position descriptions provided by the Entity;
- (i) ensure that all Labour Hire Workers are aware of, and comply with, all confidentiality, privacy and secrecy obligations required by an Entity (including as set out in any undertaking signed by a Labour Hire Worker) for the duration of their engagement and any relevant period thereafter;
- (j) provide Labour Hire Workers in the roles, for the duration of engagement, and at the times and location(s), specified by an Entity;
- (k) have the capacity and capability to manage the entire process of a continual supply of suitably qualified and appropriately skilled Labour Hire Workers, including replacement of a Labour Hire Worker;
- (l) create and manage an ongoing register of suitably qualified and appropriately skilled candidates to meet future Entity requests for Labour Hire Workers;
- (m) have appropriate administrative procedures in place to manage the Service Provider's relationship with Labour Hire Workers and to ensure that the Service Provider satisfies all of its legal obligations in respect of Labour Hire Worker entitlements, including as described in clause 18;

- (n) have the flexibility, capacity and expertise to meet varying Entity requirements in respect of Labour Hire Workers, including to provide a range of suitably qualified and appropriately skilled Labour Hire Workers for different periods, often at short notice;
- (o) maintain a single point of contact for Entities with nominated 'Account Managers' for each Entity;
- (p) attend and participate in governance meetings for the effective conduct and management of its responsibilities under a Contract, at the times specified in a Contract; and
- (q) create and maintain records of all Labour Hire Workers who are placed with an Entity.

3.3 The Service Provider must:

- (a) satisfy all legal obligations concerning the terms and conditions of employment or engagement for Labour Hire Workers, including under the *Fair Work Act 2009* (Cth), the National Employment Standards, and any applicable industrial award;
- (b) ensure that Labour Hire Workers are adequately informed about their pay rates and other conditions of employment or engagement; and
- (c) ensure that Labour Hire Workers are paid the Agreed Base Salary as specified in the relevant Order.

3.4 The parties acknowledge and agree that the Service Provider is responsible for making all required superannuation contributions in respect of Labour Hire Workers, and no Entity is required to make any superannuation contributions in respect of any Labour Hire Workers under any Contract.

PART B – ENGAGEMENT OF LABOUR HIRE WORKERS

4 Pre-engagement checks

4.1 Unless specified otherwise in a Contract, the Service Provider must, at the cost of the Service Provider, ensure that prior to commencing an engagement with an Entity, all Labour Hire Workers:

- (a) have undergone a criminal history assessment or police check;
- (b) have undergone a medical check or fitness assessment, in accordance with clause 27;
- (c) have obtained the specified security clearance by an Entity;
- (d) are Australian citizens;

- (e) have obtained any other relevant clearances required by an Entity (e.g. Employment Suitability Clearance, working with children and/or vulnerable persons, disability services or in the aged care sector); and
 - (f) have undertaken any additional checks and obtained any additional clearances required by a Contract.
- 4.2 Unless specified otherwise in a Contract, the Service Provider must, at the cost of the Service Provider, ensure that prior to commencing an engagement with an Entity, all Labour Hire Workers:
- (a) have had their skills and education claims verified; and
 - (b) obtained a minimum of two reference checks from employers within the past five years.
- 4.3 In respect of each of the pre-engagement checks and clearances specified in clause 4.1, the Service Provider must:
- (a) obtain from the Labour Hire Worker all documentation necessary to complete the checks and clearances;
 - (b) ensure it has obtained the consent of the relevant Labour Hire Worker for the Entity to receive, read and retain copies of the checks and clearance documents (and related documents and Personal Information); and
 - (c) provide any other information reasonably required by an Entity to enable that Entity to establish, in its sole discretion, that a Labour Hire Worker is a suitable person to work in connection with the Labour Hire Services.

5 Process for engaging Labour Hire Workers

- 5.1 Unless specified otherwise in a Contract, prior to the engagement of a Labour Hire Worker:
- (a) the Service Provider must provide a list of proposed Labour Hire Workers being offered by the Service Provider for an engagement, which sets out in respect of each Labour Hire Worker:
 - (i) identity and contact information (e.g. full name, address, phone number(s), email address and date of birth);
 - (ii) if Finance introduces a Panel Administration Platform in accordance with clause 5.5 of the Head Agreement, the unique ID for the Labour Hire Worker as registered in the Panel Administration Platform;
 - (iii) relevant education, qualifications, training and licences;

- (iv) relevant work history, including details of previous employers and reasons for termination of prior engagements (if any);
 - (v) relevant skills and abilities (e.g. computer skills, languages);
 - (vi) relevant health particulars (e.g. any pre-existing injuries, any known allergies, or any other health conditions that may place them at risk during an engagement);
 - (vii) references;
 - (viii) the proposed start date and finish date (if known) for proposed Labour Hire Workers;
 - (ix) the Agreed Base Salary for each proposed Labour Hire Worker;
 - (x) confirmation that the proposed Labour Hire Worker has undergone the relevant pre-engagement checks, and the results of those checks;
 - (xi) the details of clearances held (e.g. security clearance);
 - (xii) where no clearance is held, details of whether the Labour Hire Worker is prepared to undergo a security assessment to meet the Entity's security guidelines should they be successful; and
 - (xiii) any other information specified by the Entity in a Contract;
- (b) the Service Provider must provide an Entity with information reasonably required by an Entity about the proposed Labour Hire Workers and the steps taken by the Service Provider to check or validate the information;
 - (c) the Service Provider must comply with any directions given by the Entity in respect of the proposed Labour Hire Workers; and
 - (d) the Entity will review the list of proposed Labour Hire Workers and has the right, in its absolute discretion, to approve or reject particular individuals offered by the Service Provider as Labour Hire Workers. Any decision by the Entity to approve or reject persons proposed as Labour Hire Workers will be final.

5.2 The Service Provider must conduct any pre-engagement checks, training or induction processes for Labour Hire Workers that are specified in a Contract.

6 Bulk engagement

6.1 Where permitted by a Contract, an Entity may use an 'express' method of engaging Labour Hire Workers, under which an Entity may specify:

- (a) the number and location of Labour Hire Workers to be provided; and

- (b) the mandatory pre-engagement checks and clearances that are required for those Labour Hire Workers,

and the Service Provider must use best endeavours to provide such Labour Hire Workers to the Entity within the timeframe specified by the Entity.

7 Changes to numbers of Labour Hire Workers

7.1 Unless otherwise specified in a Contract, an Entity may at any time during the term of a Contract, change:

- (a) the number of Labour Hire Workers engaged by the Entity; or
- (b) the location of the workplace for the Labour Hire Workers engaged by the Entity,

by providing 10 Business Days written notice (or such other longer period of notice specified in a Contract) to the Service Provider.

7.2 To avoid doubt, where an Entity changes the number of Labour Hire Workers engaged pursuant to clause 7.1

- (a) such change does not constitute a termination or reduction in scope of the relevant Contract for convenience for the purposes of clause 28.5 of the Head Agreement; and
- (b) the Service Provider will not be entitled to any compensation or reimbursement of costs for ceased Labour Hire Workers under clause 28.5 of the Head Agreement, regardless of how many times the relevant right is exercised by the Entity.

7.3 For the avoidance of doubt, where the Entity changes the number of Labour Hire Workers engaged in accordance with clause 7.1 and the change results in certain Labour Hire Workers no longer being engaged by the Entity, any amounts payable for Ordered Services provided by those Labour Hire Workers up until their engagement ceases will still be payable in accordance with the terms of the Contract and this Head Agreement, and clause 7.2(b) does not apply to those amounts.

8 On site requirements for Labour Hire Workers

Unless agreed by the Entity in writing, all Labour Hire Workers will be required to work on-site at an Entity facility.

9 Extension of engagement of Labour Hire Workers

9.1 An Entity may request to extend the engagement of a Labour Hire Worker by notifying the Service Provider in writing at least 10 Business Days prior to the end date of the Labour Hire Worker's engagement and, subject to the availability of the Labour Hire Worker, the Service Provider must make all reasonable efforts to grant such a request.

- 9.2 Where the Service Provider is unable to grant an extension request made by an Entity under clause 9.1, the Service Provider must notify the Entity within 5 Business Days of receiving the notice in clause 9.1.

Unsuitable Persons

- 9.3 If an Entity (in its sole discretion) forms the view that a Labour Hire Worker:

- (a) is incompetent, negligent or guilty of misconduct;
- (b) has disobeyed or disregarded a lawful direction given by the Entity or Entity Personnel;
- (c) has failed to comply with any relevant Law, or otherwise engaged in serious misconduct;
- (d) has failed to act in accordance with the standards and requirements of the APS Values, the APS Code of Conduct, an Entity's Work Health and Safety requirements, an Entity's social media policy, or any applicable Entity policies, procedures or guidelines specified in a Contract;
- (e) has engaged in conduct that brings the Entity into disrepute;
- (f) has misused, accessed without authorisation or improperly disclosed Protected Information or an Entity's Confidential Information, or has otherwise failed to comply with the requirements of any privacy, secrecy or confidentiality undertaking signed by the Labour Hire Worker;
- (g) has failed to comply with an Entity's security requirements (including information security requirements);
- (h) while accessing or using an Entity's premises, Entity provided Materials, or Entity hardware, has failed to comply with the access and use requirements;
- (i) in the opinion of the Entity, the Labour Hire Worker is not performing (or has not performed) their role to the satisfaction of the Entity; or
- (j) is otherwise not suitable to work in connection with the Labour Hire Services;

then the Entity may, at any time, in its absolute discretion and without liability to the Service Provider or the relevant Labour Hire Worker:

- (k) undertake a process to ensure that the conduct or performance of the Labour Hire Worker is suitably managed to the reasonable satisfaction of the Entity; or
- (l) immediately on notice to the Service Provider, cease to engage the relevant Labour Hire Worker in connection with the Labour Hire Services under a Contract.

- 9.4 The Service Provider must notify an Entity immediately if it becomes aware of any information that may affect that Entity's acceptance of any Labour Hire Worker.
- 9.5 Without limiting clause 9.4, the Service Provider must immediately notify an Entity if a Labour Hire Worker is charged with a criminal offence for which there is or would (if admitted or proven) be a connection between the offending conduct and the duties, role or position of the Labour Hire Worker under a Contract.
- 9.6 Entities reserve their rights to refuse entry to Entity premises to any Labour Hire Worker.

10 Absences or unavailability of Labour Hire Workers

- 10.1 Where a Labour Hire Worker has been engaged by an Entity, that Labour Hire Worker may, with prior approval from the Entity, be absent from the engagement for a period of time approved by the Entity.
- 10.2 Where the Service Provider becomes aware that a Labour Hire Worker will be absent from the relevant workplace (e.g. due to illness), or otherwise unavailable or unable to carry out their role (e.g. due to resignation), then the Service Provider must notify the relevant Entity immediately.
- 10.3 Subject to clause 10.5, the Service Provider must not seek to charge, and an Entity will not be liable to pay, any Fees in respect of a Labour Hire Worker for any period while they are absent from the workplace.
- 10.4 Where a Labour Hire Worker has been engaged by an Entity for a specific duration, then the Service Provider must not (except where entirely unavoidable e.g. due to genuine illness or resignation of the Labour Hire Worker) permit or facilitate the removal of that Labour Hire Worker prior to the end date of their engagement with the Entity.
- 10.5 An absence or unavailability by a Labour Hire Worker as a result of taking paid family and domestic violence leave in accordance with the *Fair Work Act 2009* (Cth) will not be considered an absence or an unavailability for the purposes of clause 10.3.

11 Replacements and substitutes

- 11.1 Where a Labour Hire Worker:
- (a) is absent or otherwise unavailable, as referred to in clause 10.2; or
 - (b) has their engagement with an Entity ceased pursuant to clause 9.3(l) or 16.1;

the Service Provider must, if required by the Entity, provide a replacement Labour Hire Worker (or, if applicable, temporary substitute Personnel) who is suitably qualified and acceptable to the Entity, at no additional charge, and within 24 hours unless otherwise agreed by the Entity.

- 11.2 If the Service Provider is unable to provide a replacement Labour Hire Worker in accordance with clause 11.1, the Entity may, in addition to any rights it has under the Contract, terminate or reduce the scope of the Contract for default by giving 10 Business Days' written notice of termination.

12 Performance management of Labour Hire Workers

- 12.1 For the duration of the engagement of Labour Hire Workers under a Contract, the performance management of the Labour Hire Workers is the responsibility of the Service Provider, and the Service Provider must:

- (a) liaise with the relevant Entity throughout the duration of the engagement regarding the performance of the Labour Hire Worker; and
- (b) where an Entity advises that the performance of a Labour Hire Worker is not satisfactory, promptly:
 - (i) comply with any reasonable directions from the Entity; and
 - (ii) implement remedial action required by the Entity.

- 12.2 Nothing in clause 12.1 limits the Entity's rights under any other provision of this Schedule or elsewhere in this Head Agreement.

13 Conversion of a Labour Hire Worker to an Entity employee

- 13.1 In certain circumstances an Entity may offer a Labour Hire Worker an opportunity to become a direct employee of the Entity. Conversion occurs where a Labour Hire Worker who is engaged by the Service Provider for the purpose of the Service Provider providing Labour Hire Services to an Entity under an Order accepts an offer of employment by the Entity ("**Conversion**").

- 13.2 Where a Conversion takes place, the Service Provider must provide a seamless transition of the Labour Hire Worker to the Entity.

- 13.3 If Conversion occurs in respect of a Labour Hire Worker:

- (a) the Service Provider may be eligible for a Conversion Fee in respect of Conversion a Labour Hire Worker in accordance with the terms of **Schedule 3 (Pricing)**; and
- (b) the Service Provider must immediately cease charging any Fees for that Labour Hire Worker other than any Conversion Fee that the Service Provider is entitled to charge pursuant to **Schedule 3 (Pricing)**.

- 13.4 The Service Provider acknowledges and agrees that any Labour Hire Worker who is engaged by an Entity under an Order is not guaranteed to be made an offer of employment with that Entity.

14 Introduction of an employee to an Entity resulting in a section 26 transfer

- 14.1 An Entity may place an Order to request Introduction Services from the Service Provider as described in clause 14.2.
- 14.2 If a Service Provider facilitates an introduction between the Entity who has a Contract with the Service Provider and an APS employee from another entity, and the APS employee subsequently moves to the Entity as a result of the operation of section 26 of the *Public Service Act 1999* (**Introduction**), the Service Provider will be entitled to an Introduction Fee in accordance with **Schedule 3 (Pricing)**.

15 Placement of a candidate as a non-ongoing APS employee

- 15.1 An Entity may place an Order to request Placement Services from the Service Provider as described in clause 15.2.
- 15.2 If a Service Provider facilitates the sourcing of a candidate who an Entity (that has a Contract with the Service Provider), considers for a non-ongoing APS position of employment, and the candidate is subsequently employed by the Entity for that non-ongoing APS position of employment (**Placement**), the Service Provider will be entitled to a Placement Fee in accordance with **Schedule 3 (Pricing)**.

16 Cessation of engagement

- 16.1 An Entity may cease the engagement of one or more Labour Hire Workers under a Contract:
- (a) by giving the Service Provider a minimum of 10 Business Days' notice, where the Labour Hire Worker is no longer required by the Entity; or
 - (b) effective immediately upon notice from the Entity to the Service Provider:
 - (i) in accordance with clause 9.3(l); or
 - (ii) where permitted by a Contract.
- 16.2 Where an Entity ceases the engagement of Labour Hire Worker under clause 16.1, then on and from the date of cessation of the Labour Hire Worker, the Service Provider must:
- (a) immediately cease providing the relevant Labour Hire Worker to the Entity;
 - (b) comply with any relevant transition out directions given by the Entity in respect of the ceased Labour Hire Worker;
 - (c) except in the case of a cessation under clause 16.1(a), if required by the Entity, replace the ceased Labour Hire Worker with a suitable substitute Labour Hire Worker at no additional cost to the Entity and within any timeframe specified by the Entity; and

- (d) not seek to charge the Entity any Fees for the Labour Hire Worker for any period after the date of cessation.
- 16.3 To avoid doubt, a cessation of a Labour Hire Worker by an Entity in accordance with clause 16.1 does not constitute a termination or reduction in scope of the relevant Contract for convenience for the purposes of clause 28.5, and the Service Provider will not be entitled to any compensation or reimbursement of costs for ceased Labour Hire Worker under clause 28.5.
- 17 Transition out**
- 17.1 Where a Contract specifies a Transition Out Period, the Service Provider must, for the duration of that Transition Out Period:
 - (a) comply with any approved transition out plan;
 - (b) continue to provide the Labour Hire Services in accordance with the Contract, including ensuring the availability of sufficient Labour Hire Worker to meet an Entity's requirements for the duration of the Transition Out Period;
 - (c) cooperate with, and provide all reasonably required assistance and information to the Entity and any new provider;
 - (d) do all things necessary, and execute all documents as are reasonably required by an Entity in support of the transition out of the Service Provider and (if applicable) the transition in of a new provider;
 - (e) fulfil any reasonable request by an Entity in relation to the cessation or transition of the Labour Hire Services; and
 - (f) must bear the cost of any steps, actions, obligations or activities required of the Service Provider arising from or in connection with transition out.
- 17.2 For the duration of any Transition Out Period:
 - (a) the Fees for the Labour Hire Services provided will be payable in accordance with clause 31; and
 - (b) the Service Provider is not otherwise entitled to any reimbursement of expenses, payment or compensation for transition out activities.
- 17.3 On the termination, expiry or reduction in scope of this Head Agreement or any Contract, the Service Provider must:
 - (a) at its own cost, make its Personnel (including Labour Hire Workers) available, as Finance or an Entity reasonably requires, to provide any explanations or clarifications necessary to enable Finance or an Entity to have the complete benefit of the Services;

- (b) ensure that all Services are adequately documented, and appropriate records have been kept and are accessible to an Entity; and
- (c) take all available steps to protect Entity Equipment and deal with Entity Equipment as reasonably directed by the Entity.

PART C – LABOUR HIRE WORKER ENTITLEMENTS

18 Labour Hire Worker entitlements

- 18.1 Each Contract between the Service Provider and an Entity is entered into on the understanding that the Entity is not required to make any superannuation, long service leave contributions or other statutory employment payments in connection with the Contract (other than as specified in **Schedule 3 (Pricing)**), regardless of the arrangements between the Service Provider and its Labour Hire Workers and regardless of any legal structures adopted by those Personnel for their engagement.
- 18.2 The Service Provider is responsible for all wages, salaries and other payments and entitlements to its Personnel and must fully comply with all relevant Laws and other Commonwealth requirements in relation to Personnel including labour and industrial relations Laws and those relating to working conditions, salary, wages, leave, the payment of any relevant tax, superannuation, 'pay as you go' or other income tax remissions and any other amounts, remissions and allowances including those under any industrial awards or agreements relevant to a Contract.
- 18.3 Without limiting clause 18.2, the Service Provider must:
 - (a) comply with all applicable Laws and other requirements relating to the security of payments that are due to persons;
 - (b) ensure that payments made by the Service Provider to its Personnel are made in a timely manner; and
 - (c) as far as practicable, ensure that disputes about any payments to its Personnel, are resolved in a reasonable, timely and cooperative way.
- 18.4 Upon request, the Service Provider must demonstrate that it has complied with the obligations referred to in this clause 18.

19 Labour Hire Workers not employees of an Entity

- 19.1 Labour Hire Workers are not by virtue of any Contract between the Service Provider and an Entity, an employee of that Entity or the Commonwealth, nor do Labour Hire Workers have any power or authority to bind or represent an Entity or the Commonwealth, unless specifically authorised in writing by an Entity.
- 19.2 The Service Provider must ensure that Labour Hire Workers do not:

- (a) misrepresent its relationship with an Entity or the Commonwealth;
- (b) engage in any misleading or deceptive conduct in relation to the Services; or
- (c) represent themselves as an employee of an Entity or the Commonwealth.

PART D – COMPLIANCE WITH LAWS AND POLICIES

20 Entity policies

20.1 For the duration of any engagement of a Labour Hire Worker by an Entity, the Service Provider must ensure its Labour Hire Worker complies with:

- (a) all policies, procedures and guidelines of the Entity made available to the Labour Hire Worker; and
- (b) any direction given by Finance or an Entity, which Finance or the Entity (as relevant), considers reasonably necessary to ensure compliance with applicable Laws relating to work health and safety.

21 Security

21.1 The Service Provider must ensure that, for the duration of their engagement, a Labour Hire Worker complies with:

- (a) all relevant security and other requirements specified in the Protective Security Policy Framework that are communicated to the Labour Hire Worker; and
- (b) all relevant Entity policies, procedures and other requirements relating to security, as specified in a Contract or as communicated to the Labour Hire Worker in the course of their work for an Entity,

including any amendments to security policies or requirements communicated to the Labour Hire Worker from time to time.

21.2 Where a security clearance is required for a Labour Hire Worker under a Contract, the Service Provider must ensure that the Labour Hire Worker:

- (a) holds the appropriate security clearance for the duration of their engagement under that Contract;
- (b) complies with reporting requirements applicable to security clearance holders (e.g. regarding significant changes to personal circumstances, or Security Incidents); and
- (c) applies the “need-to-know” principle in respect of Security Classified Resources.

22 Subcontracting

- 22.1 Without limiting clause 7.2 of the Head Agreement, unless expressed otherwise in an Order, the Service Provider must:
- (a) not subcontract any aspect of the Ordered Services without the prior written approval of the relevant Entity (such approval may be subject to conditions);
 - (b) not subcontract on terms that would permit the Subcontractor to do or omit to do something that would, if done or omitted to be done by the Service Provider, constitute a breach of this Head Agreement or a Contract; and
 - (c) ensure that any Subcontractor is bound by, and complies with, provisions to the effect of the following clauses of the Head Agreement, to the extent relevant to the services provided by the Subcontractor:
 - (i) clause 13.1.1(a) (Due skill and care);
 - (ii) clause 16 (Commonwealth Laws and policy requirements);
 - (iii) clause 18 (Insurance);
 - (iv) clause 23 (Confidentiality);
 - (v) clause 24 (Security);
 - (vi) clause 25 (Privacy);
 - (vii) clause 28 (Termination); and
 - (viii) clause 32 (Audit and access).

23 Working from Home

- 23.1 The Service Provider is required to ensure that a Labour Hire Worker has the capability and capacity to work from home, i.e. ICT, telephony, and internet connectivity.
- 23.2 If agreed in an Order, a Labour Hire Worker may be permitted to work from home.
- 23.3 A Labour Hire Worker may be required to perform the services as home based work during the period covering a declared pandemic, disaster, or as required by the Entity from time-to-time.
- 23.4 The Service Provider will be notified in writing by the Entity should a Labour Hire Worker be required to work from home.

- 23.5 The Service Provider will specify in the Notice, the period that the Labour Hire Worker is required to perform the services as home based work. Labour Hire Workers must perform the services at the location specified by the Entity in an Order on expiration of the Notice period.
- 23.6 For the purpose of clarification, Labour Hire Workers are required to return to work at the location specified by the Entity in an Order at the end of the Notice period.
- 23.7 Service Provider must provide the Entity an outline of its preparedness in response to a declared pandemic, or disaster within seven (7) calendar days of the Order Commencement Date.
- 23.8 Nothing in this clause relieves the Service Provider from liability under any of the other provisions of this Head Agreement, including liability under clause 24 of this **Schedule 2 (Labour Hire Services)**.

24 Entity Equipment

- 24.1 Under a Contract, an Entity may make Entity Equipment available to the Service Provider or its Personnel for the purposes of the Service Provider providing Services.
- 24.2 Where an Entity makes Entity Equipment available to the Service Provider or its Personnel under a Contract, then the Service Provider must not, and must ensure its Personnel do not:
- (a) use any Entity Equipment for any purpose other than the purpose for which it was provided;
 - (b) without the prior written approval of an Entity, transfer possession or control of the Entity Equipment to any other person; or
 - (c) create, or allow to be created any security interest over any Entity Equipment.
- 24.3 For any Entity Equipment provided under a Contract, the Service Provider must ensure that its Personnel:
- (a) protect Entity Equipment from loss or damage;
 - (b) maintain Entity Equipment in good working order; and
 - (c) promptly return the Entity Equipment to the Entity on request by the Entity or where the Entity Equipment is no longer required by the Service Provider or its Personnel for the performance of the Services.

25 Harmful Code

- 25.1 The Service Provider must, and must ensure its Personnel, undertake reasonable efforts to detect and prevent any:

- (a) unauthorised access to Confidential Information and Personal Information in Finance or Entity systems including the Panel Administration Platform (if introduced); and
 - (b) any Harmful Code from being introduced by the Service Provider, its Personnel or Subcontractors into the Entity's systems or Finance's systems or sent from the Entity's systems or Finance's systems by the Service Provider, its Personnel or Subcontractors, in the course of the Services, including by:
 - (i) implementing practices and procedures that are consistent with industry best practice for an engagement similar to the Services;
 - (ii) use of appropriate and up-to-date virus detection software for preventing and detecting Harmful Code; and
 - (iii) without limiting paragraphs (i) or (ii), pro-actively informing itself of developments in threats of Harmful Code, and taking reasonable precautions against such known threats.
- 25.2 If the Service Provider, or any of its Personnel, becomes aware that any Harmful Code is found to have been detected, the Service Provider must (and must ensure its Personnel):
- (a) notify the Entity or Finance (as relevant) promptly and in any event within 24 hours of discovery; and
 - (b) provide all information known by the Service Provider and reasonably requested by the Entity or Finance (as relevant) in relation to the Harmful Code, its manner of introduction and the effect the Harmful Code has had or is likely to have.

26 Drug and alcohol testing

- 26.1 The Service Provider must ensure that Labour Hire Workers are aware that they have a responsibility to ensure the use of alcohol, drugs or other substances do not impact on safety in the work environment in which they carry out their duties.
- 26.2 If specified in a Contract, an Entity may require that the Labour Hire Worker be tested for alcohol or other drugs at any time (including prior to commencement, during an engagement, randomly, or as a result of an incident) and the Service Provider must ensure that the Labour Hire Worker submits to such testing.
- 26.3 Where drug or alcohol testing occurs in respect of a Labour Hire Worker:
- (a) the testing will be undertaken by a suitably trained, qualified collector who is authorised by the relevant Entity;

- (b) the testing itself, and the outcome of a test (including where a Labour Hire Worker refuses to submit to a test), will be undertaken in accordance with the relevant Entity's policies and procedures relating to drugs and/or alcohol; and
- (c) the Entity will notify the Service Provider of any issues or concerns as soon as reasonably practicable.

27 Medical checks and vaccinations

27.1 If specified in a Contract, an Entity may require that a Labour Hire Worker:

- (a) undergo a medical check prior to engagement to ensure their fitness to provide the services and undertake the activities required as part of their role; and/or
- (b) have been vaccinated against specific diseases.

27.2 Where a Contract specifies a requirement for medical checks and/or vaccinations, the Service Provider must:

- (a) ensure that the Labour Hire Worker undertakes the medical checks and have received the vaccinations specified in a Contract prior to commencing an engagement with an Entity;
- (b) if specified in the Contract, bear the costs of any medical checks and vaccinations of the Labour Hire Worker; and
- (c) maintain adequate records of all medical checks and vaccinations of Labour Hire Workers, and provide such records to the Entity upon request.

PART E – FINANCIAL AND LEGAL MATTERS

28 Timesheets

28.1 The Service Provider must maintain complete and accurate Timesheets for each Labour Hire Worker it provides to an Entity under a Contract.

28.2 Each Timesheet must comply with the form and substance requirements set out in a Contract (if any), and each Timesheet must include the following information as a minimum:

- (a) the name of the Entity to which the Labour Hire Workers are provided;
- (b) the name and role of each Labour Hire Worker provided to the Entity;
- (c) the time period covered by the Timesheet;

- (d) an accurate record of the Hours Worked by each Labour Hire Worker, including any overtime (if applicable) during the Timesheet period;
- (e) any absences by Labour Hire Workers during the Timesheet period;
- (f) comments (if any) and a signature or approval from the relevant Entity delegate; and
- (g) any other details as agreed between the parties including, in respect of any absences by a Labour Hire Worker as a result of taking paid family and domestic violence in accordance with the *Fair Work Act 2009* (Cth), any additional information reasonably requested by an Entity.

28.3 The Service Provider must submit each Timesheet to the relevant Entity for approval in accordance with the approval processes set out in a Contract, or if no approval processes are set out in a Contract, in accordance with the following process:

- (a) the Service Provider must submit each Timesheet to the relevant Entity within 10 Business Days of the end of the relevant Timesheet period, unless otherwise agreed in an Order;
- (b) the Entity must approve or reject the relevant Timesheets within 10 Business Days of the Timesheet being submitted for approval by the Service Provider; and
- (c) where the Entity rejects a Timesheet, the Entity will provide reasons for rejection (e.g. the Timesheet was incomplete or inaccurate) and the Service Provider must make any necessary changes and resubmit the Timesheet to the Entity for approval within 5 Business Days of receiving a notice of rejection.

28.4 The Service Provider must not invoice an Entity for, and an Entity will not be liable to pay, any amount to the Service Provider in respect of a Timesheet that has not been approved by the Entity.

29 Ordinary hours and overtime

29.1 Subject to the requirements of any relevant industrial instrument (which will take precedence), the work undertaken by a Labour Hire Worker for an Entity under a Contract must be performed during the standard working hour period(s) specified in the Contract. Where no standard working hour period is specified in a Contract, the standard working hour period will be between 7am to 7pm on Business Days.

29.2 Where permitted by the terms of a Contract an Entity may require Labour Hire Workers to work outside the standard working periods (determined in accordance with clause 29.1) or to otherwise work overtime, which may include weekends and public holidays, as specified in a Contract.

29.3 The Service Provider must ensure that no Labour Hire Worker undertakes overtime work unless instructed to do so by an Entity, and an Entity will not be liable to pay the Service

Provider for any Hours Worked by a Labour Hire Worker outside of agreed or ordinary hours under a Contract without the prior written approval of the Entity.

- 29.4 Subject to this clause 29, the Fees payable for overtime work undertaken by Labour Hire Workers will be as specified in a Contract.

30 Travel and related expenses

- 30.1 Where an Entity requires the Labour Hire Worker to travel for official purposes, the Entity will either:

- (a) pay for the travel itself; or
- (b) reimburse the Service Provider in accordance with this clause 30 for reasonable travel, accommodation, and associated travel expenses,

if the relevant travel and/or accommodation (and the associated cost) is pre-approved in writing by the Entity before the travel takes place.

- 30.2 In order to be reimbursed for travel costs as described in clause 30.1, the Service Provider must submit a correctly rendered Tax Invoice, together with supporting receipts and other travel documents as required by the Entity. The Entity will then reimburse the Service Provider in accordance with this Head Agreement and the Entity's invoicing and payment procedures.

- 30.3 The Entity must ensure that all time spent by a Labour Hire Worker in transit en route between origin and destination, or between destinations if there is more than one, in respect of approved travel, is recorded by the Labour Hire Worker as Hours Worked in their Timesheet. The amount of time ordinarily spent travelling to and from the usual place of work specified in the Order will be excluded from the travel time recorded unless otherwise agreed by the Entity.

- 30.4 This clause does not prevent the recovery of other expenses, where this is permitted in a Contract.

31 Fees

- 31.1 The Fees payable to the Service Provider in respect of Labour Hire Services and other Services will be as specified in a Contract based on the Fees outlined in **Schedule 3 (Pricing)** and where applicable, pursuant to:

- (a) clause 11.2.6(a) or (b) of this Head Agreement; and/or
- (b) the Fee adjustment mechanism in clause 14.2.1 of this Head Agreement.

- 31.2 The Service Provider must ensure that all Hours Worked by Labour Hire Workers are charged at the applicable rate in accordance with the Contract and this clause 31, and

unless agreed otherwise in a Contract, no additional fees may be charged by the Service Provider for the provision of Labour Hire Workers.

32 Recipient Created Tax Invoices

32.1 A Contract may specify that an Entity can issue a Recipient Created Tax Invoice (**RCTI**) in respect of the supply of Labour Hire Services, in which case:

- (a) the Entity will issue the original or a copy of the RCTI in respect of the supply of Labour Hire Services to the Service Provider under the Contract within 28 days of the making, or determining the value, of the taxable supply, and will retain the original or a copy;
- (b) the Entity will issue the original or a copy of an adjustment note to the Service Provider within 28 days of any adjustment, and will retain the original or a copy;
- (c) the Service Provider will not issue Tax Invoices in respect of the supply of Labour Hire Services to the Service Provider under the Contract;
- (d) each party acknowledges and warrants that it is registered for GST when it enters into the Contract;
- (e) each party will notify the other in writing within five Business Days if it ceases to be registered for GST, or ceases to comply with any requirements of any taxation ruling issued by the Australian Taxation Office relating to RCTIs; and
- (f) if the RCTI arrangement is unable to be implemented or ceases, the Service Provider will issue Tax Invoices in respect of the supply of Labour Hire Services to the Service Provider under the Contract.

33 Disputed Invoices

33.1 An Entity will notify the Service Provider if it determines that a Tax Invoice issued by the Service Provider does not appear to be correctly rendered or is otherwise disputed by the Entity (**Disputed Invoice**), after following the process in clause 14.4.1 and the Entity believing the resubmitted invoice is incorrect.

33.2 Where an Entity notifies the Service Provider that it has submitted a Disputed Invoice, the Service Provider must, within seven Business Days of receiving such notice provide:

- (a) any information; or
- (b) supporting evidence,

requested by the Entity to in respect of the Disputed Invoice to resolve the dispute.

33.3 Following the process in clause 33.2, an Entity may:

- (a) process the Disputed Invoice for payment, because the response provided by the Service Provider has resolved the disputed invoice (for example, if missing evidence is provided); or
 - (b) require the Service Provider to correct and resubmit the Disputed Invoice.
- 33.4 If the dispute is not resolved as a result of the process in clause 33.2 above, the Entity may deem the invoice to be “incorrectly rendered” and the Service Provider must, within seven Business Days, cancel the original Disputed Invoice and submit a new Tax Invoice and supporting documentation.