

Head Agreement for the provision of Occupational Rehabilitation and Associated Medical Services

Comcare Australia
the Lead Agency

[insert name]
the Provider

EXECUTION VERSION

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Head Agreement for the provision of Occupational Rehabilitation and Associated Medical Services

Parties **Comcare Australia ABN 41 640 788 304** of Level 4/121 Marcus Clarke Street, Civic, ACT 2601 (the Lead Agency)

[insert name] ABN [insert ABN] of [insert address] (the Provider)

Background

- A. The Lead Agency is responsible for administering collaborative procurement arrangements to provide current, prospective and former Commonwealth employees with access to effective and efficient medical and occupational rehabilitation services.
- B. The Provider has fully informed itself of all aspects of the Services required to be performed and has represented that it has the requisite skills and experience to perform those Services in accordance with the requirements of this Head Agreement.
- C. The Provider acknowledges that this standing offer arrangement is a cooperative procurement arrangement for the purpose of the Commonwealth Procurement Rules that are issued under section 105B(1) of the *Public Governance, Performance and Accountability Act 2013* (Cth). Comcare Australia, is the Lead Agency responsible for managing and administering the arrangement for the benefit of all participating Agencies.
- D. The Provider acknowledges and agrees that an Agency may enter into a Contract under this Head Agreement with the Provider to source the Services, as a separate contract but on the terms and conditions set out in this Head Agreement.
- E. The Provider acknowledges and agrees that there is no guarantee or assurance that any Work Orders will be issued under this Head Agreement, and that any Contracts will accordingly be formed.
- F. The parties intend to administer this Head Agreement in a spirit of cooperation and goodwill in order to provide, high quality Services for Employees and Agencies.

Operative provisions

Part A – Overview of the Panel

1. Defined terms and interpretation

1.1 Defined terms

In this Head Agreement and any Contract, except where the contrary intention is expressed, the definitions set out in the Glossary are used.

1.2 Interpretation

In this Head Agreement and any Contract, except where the contrary intention is expressed:

- (a) the singular includes the plural and vice versa, and a gender includes other genders;
- (b) another grammatical form of a defined word or expression has a corresponding meaning;
- (c) a reference to a clause, paragraph, schedule or annexure is to a clause or paragraph of, or schedule or annexure to, this Head Agreement or any Contract, and a reference to this Head Agreement or any Contract includes any schedule or annexure;
- (d) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
- (e) a reference to A\$, \$A, dollar or \$ is to Australian currency;
- (f) a reference to time is to the time in the location where the relevant act is to be performed;
- (g) a reference to a party to the Head Agreement or a Contract includes the party's executors, administrators, successors and permitted assignees and substitutes;
- (h) a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;
- (i) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (j) a word or expression defined in the Corporations Act has the meaning given to it in the Corporations Act;
- (k) the meaning of general words is not limited by specific examples introduced by including, for example or similar expressions;
- (l) a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this Head Agreement or any Contract or any part of it; and
- (m) headings are for ease of reference only and do not affect interpretation.

2. Structure of this Head Agreement

2.1 Overview

This Head Agreement is structured as follows:

- (a) Part A of this Head Agreement provides an overview of the operation of the Panel, the term and effect of this Head Agreement;
- (b) Part B of this Head Agreement describes the process for an Agency to order Services under this Head Agreement; and
- (c) Part C of this Head Agreement sets out general terms and conditions that apply to the delivery of Services.

2.2 Priority of Head Agreement documents

If there is any inconsistency between any of the documents forming part of this Head Agreement, those documents will be interpreted in the following order of priority to the extent of any inconsistency:

- (a) Agreed Terms;
- (b) Statement of Requirements;
- (c) Schedules (other than the Statement of Requirements);
- (d) any attachments or annexures to the Schedules; and
- (e) any other documents incorporated by reference in this Head Agreement.

3. Duration of Head Agreement

3.1 Initial Head Agreement Period

This Head Agreement begins on the Commencement Date and continues for the duration of the Initial Head Agreement Period unless terminated earlier.

3.2 Extension of Head Agreement Period

The Initial Head Agreement Period may be extended by the Lead Agency for further period(s), specified in Item 3 of the Head Agreement Details (each an **Extension Period**), on the terms and conditions then in effect, by giving Notice to the Provider at least 20 Business Days before the end of the then current Head Agreement Period. Any extension in accordance with this clause 3.2 takes effect from the end of the then current Head Agreement Period.

4. Scope and management of this Head Agreement

4.1 Scope

- (a) This Head Agreement is a standing offer between the Lead Agency and the Provider under which, on an as-required basis, any Agency may enter into a Contract with the Provider for the provision of occupational rehabilitation and associated medical services, as described in Schedule 2.

- (b) The Provider acknowledges and agrees that it is only permitted to provide:
 - (i) Occupational Rehabilitation Services in the Service Region(s); and/or
 - (ii) Medical Services, including any Specialist Services,
as specified in Item 7 and Item 8 of the Head Agreement Details.

4.2 Role of the Lead Agency

- (a) The Lead Agency will manage the Panel and this Head Agreement for the benefit of all Agencies.
- (b) The Lead Agency's role is to do each of the following:
 - (i) administer this Head Agreement;
 - (ii) approve any change to this Head Agreement;
 - (iii) monitor and manage each Panel Member's performance, in consultation with Agencies;
 - (iv) collect data from the Provider through the reporting framework set out in the Statement of Requirements; and
 - (v) monitor and report on the operation of the Panel, including its operation, viability and expenditure.

4.3 No guarantee or exclusivity

The Provider acknowledges and agrees that:

- (a) there is no guaranteed volume of Services that will be ordered or required under this Head Agreement; and
- (b) the Lead Agency or an Agency may, at their absolute discretion (and during the Head Agreement Period) obtain the Services, or services similar to the Services, from any other source they choose on any other terms.

4.4 Minimum requirements for maintaining Panel membership

- (a) In order to maintain its membership of the Panel, the Provider must:
 - (i) if it is appointed to the Panel to perform Occupational Rehabilitation Services, maintain Comcare approval as a Workplace Rehabilitation Provider, as required by the Statement of Requirements;
 - (ii) effect and maintain or cause to be effected and maintained, the insurances specified at clause 28; and
 - (iii) maintain its capacity and capability, including financial viability, to provide the Services:
 - A. if appointed to provide Medical Services and any Specialist Services, nationally, both in person and virtually; and
 - B. if appointed to provide Occupational Rehabilitation Services, throughout the whole of the Service Region(s) to which the Provider has been appointed, both in person and virtually.

- (b) To avoid doubt, clause 4.4(a) applies whether or not the Provider has a current Contract.
- (c) The Lead Agency may conduct an assessment of whether the Provider is compliant with clause 4.4(a) at any time.
- (d) If at any time the Provider fails to comply with clause 4.4(a) as determined by the Lead Agency at its absolute discretion, the Lead Agency may terminate the provision of the Services in part or remove the Provider from the Panel, by terminating its rights under clause 47.2.

5. Panel refresh

- (a) The Lead Agency may at any time during the Head Agreement Period undertake a review of the Panel on an as needs basis.
- (b) A Panel review may result in the Lead Agency identifying a need to undertake a Panel refresh. A Panel refresh may be undertaken where the Lead Agency identifies:
 - (i) the need for additional services;
 - (ii) the need to add Panel Members due to, without limitation:
 - A. Services being unavailable through existing Panel Members (including in a Service Region);
 - B. the demand for the Services (including in a Service Region) not being met by existing Panel Members;
 - C. one or more Panel reviews demonstrating that value for money is not being provided by existing Panel Members for the Services; or
 - D. specific skill sets required for the Services being unavailable from existing Panel Members.
- (c) A Panel refresh may result in one or more of the following:
 - (i) adding new service types to the Panel;
 - (ii) adding one or more new service types or Service Regions to the scope of an existing Panel Member's Services; or
 - (iii) adding additional Panel Members.
- (d) All responses to invitations to add Panel Members will be evaluated in accordance with the same or substantively equivalent evaluation process used when evaluating responses to the initial request for tender for provision of the Services.

6. Head Agreement administration

6.1 Panel Manager

- (a) The Lead Agency will appoint a Panel Manager. The Panel Manager is the contact person for the Provider in relation to all matters of an administrative nature relating to this Head Agreement. The Panel Manager may authorise another person or persons to act on their behalf.

- (b) The Lead Agency may appoint another person to replace the Panel Manager by providing Notice to the Provider.

6.2 Provider Relationship Manager

- (a) The Provider will appoint a Provider Relationship Manager. The Provider must ensure that the Provider Relationship Manager:
 - (i) is the primary point of contact for the Lead Agency for the purposes of this Head Agreement;
 - (ii) has the authority to perform each of the relevant tasks specifically conferred on the Provider Relationship Manager by this Head Agreement; and
 - (iii) is an employee or contractor of the Provider.
- (b) The Provider must comply with the reasonable directions of the Panel Manager in relation to the administration and operation of this Head Agreement.
- (c) The Provider may nominate another person to replace the Provider Relationship Manager by Notice to the Lead Agency.
- (d) If the Provider nominates a person to replace the Provider Relationship Manager under clause 6.2(c), the Lead Agency must Notify the Provider as to whether or not the nomination has been accepted (including reasons if not accepted). If the Lead Agency notifies the Provider that a nomination is not accepted, the Provider must promptly nominate another person to replace the person.

6.3 Meetings and reports

- (a) If requested by the Lead Agency, the Provider must, at its own expense, participate in any meetings (which may be by virtual attendance), in relation to the operation of this Head Agreement.
- (b) The Provider must, at its own expense, provide the Lead Agency with:
 - (i) the Documentation (including the reports and plans) set out in the Contract Management Documentation; and
 - (ii) any other reports and plans as reasonably requested by the Lead Agency in relation to the operation of this Head Agreement.

Part B - Ordering Services

7. Ordering Services

7.1 Process to be followed

- (a) The parties must follow the process set out in this clause 7 for procuring Services.
- (b) An Agency may terminate the process of procuring Services at any time without liability until such time as the parties agree in writing on the Work Order for those Services in accordance with this clause 7.

7.2 Request for quote

- (a) An Agency may, at any time during the Head Agreement Period, request a quotation from a Provider, which must include the details of the Services the Agency is considering acquiring together with details of other relevant requirements.
- (b) The Provider must on receiving a request for quotation:
 - (i) provide an Agency with a quotation that contains:
 - A. the information or material requested by the Agency; and
 - B. the proposed Fees, applying the methodology in Schedule 4 (Fee Methodology); or
 - (ii) advise the Agency that the Provider is declining to submit a quotation, together with its reasons for declining.
- (c) The Provider will not be entitled to charge an Agency for the cost of preparing a quotation or any other documentation (such as an estimate) under this clause 7.2.
- (d) The Provider acknowledges and agrees that an Agency is not obliged to issue a Work Order, in accordance with clause 7.4, following receipt of a quotation from the Provider.

7.3 Fee

- (a) In determining the amount which is payable to the Provider as a Fee for delivering the Services, the Provider must apply the methodology in Schedule 4 (Fee Methodology).
- (b) The total amount payable to the Provider as a Fee for delivering the Services will be as specified in the relevant Work Order.

7.4 Issuing a Work Order

- (a) Subject to this Head Agreement, an Agency may issue the Provider with a Work Order, in accordance with the process set out in this clause 7.4.
- (b) An Agency may, following consideration of:
 - (i) the quotation, if requested by an Agency, in accordance with clause 7.2; and
 - (ii) the relevant information, in accordance with clause 7.4(c);

either:

- (iii) issue a Work Order; or
 - (iv) determine not to issue a Work Order and accordingly reject the quotation.
- (c) In determining whether to issue a Work Order, an Agency may have regard to any information available to it and any matter it considers relevant, including:
- (i) the suitability of the Services for the Agency's needs;
 - (ii) the performance of the Provider in providing Services under any previous or current Contract(s); and
 - (iii) the assessed capacity of the Provider to provide the Services.

8. Formation of Contracts

8.1 When a Contract is formed

A Contract is formed between an Agency and the Provider when both the Agency and the Provider execute a Work Order.

8.2 Contract terms and conditions

- (a) The terms and conditions of each Contract are:
- (i) the relevant terms of this Head Agreement and the Glossary;
 - (ii) the completed Work Order;
 - (iii) the Statement of Requirements; and
 - (iv) any other documents specified as being part of, incorporated into, or otherwise applicable to, the Contract (including relevant attachments and attached documents).
- (b) To the extent of any conflict between any of the provisions referred to in clause 8.2(a), the (descending) order of precedence set out in that clause will apply.

8.3 Agency liability

An Agency is not liable for any Services provided, or expenditure incurred by the Provider outside the scope of a Work Order that has been signed in accordance with this clause 8.

8.4 Duration of Contract

- (a) Each Contract formed under clause 8.1 begins on the Contract Commencement Date and continues for the duration of the Initial Contract Term unless terminated earlier in accordance with the terms of the Contract.
- (b) An Agency may, in its absolute discretion, extend a Contract for the further period(s) specified in the Work Order with at least 20 Business Days' Notice to the Provider before the expiry of the Contract Term.

8.5 Completion of Items

To the extent that the parties have not completed Items in a Work Order, unless otherwise stated in the Work Order or this Head Agreement, those Items will be taken to be 'not applicable' for the purposes of this Head Agreement and the relevant Contract.

9. Referrals

- (a) An Agency may, at any time during the Contract Term, issue a referral, either through the ORAMS Portal or in writing, setting out:
 - (i) the Service or Services required within the scope of the Contract;
 - (ii) the Provider's Personnel that the Agency requests to provide the Service or Services; and
 - (iii) any other relevant information.
- (b) On receipt of a referral, the Provider must deliver the Service or Services as specified in the referral (unless otherwise agreed with the Agency) and in accordance with the Contract.

Part C – Provision of Services

Section A - Services requirements

10. Provision of Services

10.1 Requirements

- (a) Without limiting any of its other obligations under this Head Agreement or any Contract, the Provider must:
 - (i) provide the Services and perform all obligations and requirements set out in this Head Agreement and any applicable Contract, including in the Statement of Requirements;
 - (ii) provide the Services in a manner that does not bring the Lead Agency, any Agency or the Commonwealth into disrepute;
 - (iii) perform all Services required of it under a Contract:
 - A. by Personnel who have the appropriate qualifications, accreditations, licences, expertise, capacity and capability to provide the Services to a high standard;
 - B. in a professional manner exercising appropriate skill, care and diligence and in accordance with industry best practice;
 - C. in a timely manner including by meeting all timeframes specified in the relevant Work Order or imposed by an Agency; and
 - D. meet or exceed the Service Standards in the Service Requirements (if applicable);
 - (iv) be responsive to policy developments concerning the Services and plan for and respond to those developments to the reasonable satisfaction of the Lead Agency;
 - (v) be receptive to comments and other feedback in relation to the Services, and plan for and respond to such comments and feedback to the reasonable satisfaction of the Lead Agency or an Agency;
 - (vi) regularly seek feedback on the delivery of the Services and address any issues arising from that feedback to the reasonable satisfaction of the Lead Agency or an Agency; and
 - (vii) ensure that all reports required under this Head Agreement or any Contract are accurate, meet service and report standards, and are not misleading in any material respect.
- (b) The Provider has complete responsibility and liability for the provision of the Services including the clinical content and information and advice provided in the provision of the Services notwithstanding:
 - (i) the provision by an Agency to the Provider of any information, material or advice;
 - (ii) any review or comment or any other form of approval or consent in relation to any information provided by an Agency to the Provider;

- (iii) any review of the clinical content by an Agency;
- (iv) the involvement of the Lead Agency managing this Head Agreement; and
- (v) the involvement of an Agency in managing a Contract and/or delivery of the Services.

10.2 Provider warranties

The Provider represents and warrants that:

- (a) it has the right to enter into this Head Agreement and any Contract;
- (b) it has all rights, title, licences, interests and property necessary to lawfully perform the Services;
- (c) the Services will be fit for their intended purpose;
- (d) it and its Subcontractors, Service Providers, and Personnel, have the necessary experience, skill, knowledge, expertise and competence to perform the Services and (where appropriate) will hold such licences, permits or registrations as are required under any State, Territory or Commonwealth legislation to perform the Services, and are fit and proper people;
- (e) it will not demand any payment from any person other than an Agency, and where relevant Comcare in respect of the Services provided;
- (f) all insurance policies required to be held under this Head Agreement will remain in effect as provided for in this Head Agreement;
- (g) is not named by the Workplace Gender Equality Agency as an employer that is currently not complying with the *Workplace Gender Equality Act 2012* (Cth);
- (h) it has not had a judicial decision against it (not including decisions under appeal) relating to employee entitlements in respect of which it has not paid the judgment amount; and
- (i) it is not on the Commonwealth's consolidated list of individuals and entities to which terrorist asset freezing applies and none of its Personnel or Subcontractors are on, or are a member of an entity on, that list.

10.3 Complaints handling and Notification

At all times the Provider must:

- (a) have in place a free, easily accessible, complaints resolution process to deal fairly with complaints by an Employee or an Agency in relation to any of the Services;
- (b) have in place a code of conduct;
- (c) make available nominated Personnel who have been trained in complaints resolution to receive complaints;
- (d) ensure that information regarding its complaints handling process and code of conduct is available to Agencies and Employees;
- (e) promptly action any complaints in accordance with the Provider's complaints handling process;

- (f) maintain a Service Issues and Complaints Register in accordance with the Statement of Requirements;
- (g) provide a Service Issues and Complaints Register to the Lead Agency for inspection, as required in the Statement of Requirements or upon request by the Lead Agency; and
- (h) if the complaint is of a serious nature, Notify the Panel Manager and the affected Agency within 24 hours of the complaint being made regardless of the resolution status of the complaint. A complaint may be considered of a serious nature if it involves a behaviour or act by any of the Provider's Personnel, which has, or is likely to have, a significant negative impact on the complainant, the Employee, or the reputation of the Lead Agency or affected Agency. Examples of complaints of a serious nature include complaints that relate to a data breach, physical assault, sexual harassment, bribery or corruption.

10.4 Sites

- (a) The Provider must ensure that any Site used in the performance of the Services (except where the Services are being performed at an Employee's private residence (for example, in the case of a home based assessment)):
 - (i) meets all applicable work, health and safety standards;
 - (ii) is accessible to people with a disability;
 - (iii) is generally suitable for the provision of the Services; and
 - (iv) is maintained to a high professional standard.
- (b) At all reasonable times, the Provider must:
 - (i) give or arrange for an Agency's Personnel to have reasonable access to its Sites and those of any Subcontractor; and
 - (ii) provide all assistance, as reasonably required by an Agency's Personnel, to inspect its Sites and those of any Subcontractor.

10.5 Provider not to charge

The Provider must not charge, levy, or impose any fee or cost on any person in relation to the performance of the Services, except for those amounts that it may legitimately claim from:

- (a) an Agency under a Contract; and
- (b) any other government body.

11. Use of the ORAMS Portal

11.1 General

- (a) The Provider must use the ORAMS Portal to facilitate the provision of the Services to an Agency in accordance with this Head Agreement, unless:
 - (i) otherwise directed by the Lead Agency; or
 - (ii) the Provider:
 - A. receives a referral for Services in writing from an Agency; and

- B. is directed by that Agency not to use the ORAMS Portal to facilitate the provision of Services detailed in the referral.
- (b) If a referral for Services is received by the Provider in accordance with clause 11.1(a)(ii), the Provider must not use the ORAMS Portal to facilitate any portion of the Services detailed in the referral for the duration of the Services required by the referral.
- (c) The Provider must, and must ensure that its Personnel, access and use the ORAMS Portal solely for the purpose of performing its obligations under this Head Agreement.
- (d) The Provider must ensure that its systems and tools are compatible with the ORAMS Portal.

11.2 Terms of use

- (a) The Provider acknowledges and agrees that access and use of the ORAMS Portal is governed by separate terms of use, which must be acknowledged and accepted by the Provider's Personnel prior to being granted access to the ORAMS Portal.
- (b) The Provider must ensure that its Personnel comply with the separate terms of use for the ORAMS Portal.

11.3 Training

- (a) The Lead Agency will provide the nominated Provider's Personnel with:
 - (i) training in accordance with the Statement of Requirements; and
 - (ii) guidance materials,to demonstrate appropriate access and use of the ORAMS Portal.
- (b) The Provider must ensure Personnel accessing the ORAMS Portal are provided training of the kind referred to in clause 11.3(a) and are aware of the guidance materials.

11.4 Accuracy and completeness

The Provider must ensure that all data it uploads to the ORAMS Portal is true, accurate and complete.

11.5 Access and security

- (a) The Lead Agency may provide the Provider's Personnel with access to the ORAMS Portal, on written request of the Provider.
- (b) The Lead Agency may provide technical advice to the Provider Relationship Manager on the use of the ORAMS Portal from time to time. The Provider must ensure that:
 - (i) the technical advice is disseminated to the Provider's Personnel and Subcontractors as appropriate, in order to minimise disruption to the Services; and
 - (ii) the Provider Relationship Manager provides advice, as requested by the Lead Agency to assist in resolution of the ORAMS Portal's technical issues.

- (c) The Provider must comply with the Lead Agency Policies and Procedures relating to the use of the ORAMS Portal, including with respect to security and data handling.
- (d) The Provider must ensure that a deed of confidentiality and privacy substantially in the form of Schedule 5, is signed by each relevant third party (including Service Providers) prior to that third party being granted any such access and only grant such access in accordance with this clause 11.
- (e) The Provider must report all breaches of IT security to the Lead Agency including where the Provider's Personnel suspect that a breach may have occurred or that a person may be planning to breach IT security.
- (f) If the Lead Agency considers that the Provider is or has breached this clause 11, the Lead Agency may, at its absolute discretion, immediately terminate access to the ORAMS Portal for any one or more of the following:
 - (i) any or all of the Provider's Personnel;
 - (ii) any or all of the Subcontractor's Personnel;
 - (iii) any or all Service Providers,
 by providing Notice to the Provider Relationship Manager.
- (g) If the Lead Agency terminates access to the ORAMS Portal under clause 11.5(f), it may, at its sole and absolute discretion, impose conditions on any resumption of access.
- (h) Subject to this clause 11, the Provider acknowledges and agrees that the ORAMS Portal operates independently of this Head Agreement and the Lead Agency may make any technical modifications or enhancements to, or shut down, the ORAMS Portal at any time.
- (i) Any action taken by the Lead Agency under clause 11.5(f) does not limit any other rights the Lead Agency has under this Head Agreement or at Law.

12. Subcontracting

12.1 No subcontracting without approval

- (a) With the exception of any Approved Subcontractors specified in Item 4 of the Head Agreement Details, the Provider must not subcontract to a third party the performance of any part of the Services without the Lead Agency's prior written approval.
- (b) The Lead Agency may, by Notice, impose any conditions the Lead Agency considers appropriate when giving approval under clause 12.1(a) and the Provider must comply with those conditions as notified.
- (c) If any Approved Subcontractor ceases to provide any subcontracted part of the Services, the Provider must:
 - (i) promptly Notify the Lead Agency; and
 - (ii) provide the Services either itself or seek approval under clause 12.1(a) for the Provider to subcontract the performance of the relevant part of the Services to a different Subcontractor.

12.2 Limitations on subcontracting

The Provider must not enter into a subcontract under this Head Agreement or any Contract with a Subcontractor:

- (a) named by the Director of the Workplace Gender Equality Agency in a report to the responsible Minister as an employer currently not complying with the reporting requirements of the *Workplace Gender Equality Act 2012* (Cth);
- (b) listed as a terrorist under section 15 of the *Charter of the United Nations Act 1945* (Cth); or
- (c) that does not have a Valid and Satisfactory Statement of Tax Record if required in accordance with clause 34.

12.3 Terms of subcontract

- (a) The Provider must enter into a written subcontract with each Approved Subcontractor in accordance with the requirements of this Head Agreement and the relevant Contract. The Provider must provide the Lead Agency with a copy of the subcontract on request.
- (b) The Provider must make available to the Lead Agency (if requested) details of all Subcontractors engaged in the performance of the Services.
- (c) The Provider acknowledges, and must inform all Subcontractors that, the Lead Agency may publicly disclose the names of any Subcontractors engaged in the performance of the Services.

12.4 Replacement of Subcontractors

A Lead Agency may revoke approval of a Subcontractor for performance of Services under this Head Agreement (including any Subcontractor identified in Item 4 of the Head Agreement Details) by giving Notice to the Provider. On receipt of the Notice the Provider must, at the Provider's own cost, promptly cease using that Subcontractor and arrange their replacement with the Provider's Personnel or another Subcontractor acceptable to the Lead Agency.

12.5 Provider responsibility

Despite any approval, or withdrawal of approval, of a Subcontractor by the Lead Agency, the Provider is, and always remains, responsible for ensuring the:

- (a) suitability of a Subcontractor for the work proposed to be carried out; and
- (b) Services are delivered in accordance with, and to the standard required by, this Head Agreement or any Contract.

12.6 Service Providers

- (a) The parties acknowledge and agree that Service Providers are not considered Subcontractors for the purposes of the Head Agreement or any Contract.
- (b) The Provider, if requested by the Lead Agency, must provide the Lead Agency with names of all Service Providers.
- (c) The Provider acknowledges, and must inform all Service Providers that, the Lead Agency may publicly disclose the names of any Service Providers engaged in the performance of the Services.

- (d) A Lead Agency may require a Service Provider be removed from the performance of Services by giving Notice to the Provider. On receipt of the Notice the Provider must, at the Provider's own cost, promptly cease using that Service Provider and arrange their replacement with the Provider's Personnel or another Service Provider acceptable to the Lead Agency.

13. Personnel

13.1 Personnel and resources

The Provider must ensure that its Personnel and Health Professionals performing the Services:

- (a) have the minimum standard of knowledge, training and expertise set out in the Statement of Requirements to perform the Services as appropriate to their respective role;
- (b) receive ongoing training and professional development to ensure they have, and maintain, their credentials and appropriate skills to deliver the Services, as appropriate to their role; and
- (c) comply with:
 - (i) all applicable obligations of the Provider under this Head Agreement (including the Provider's obligations in respect of Personal Information, Confidential Information and security);
 - (ii) all Laws; and
 - (iii) any relevant:
 - A. Agency Policies and Procedures; or
 - B. Lead Agency Policies and Procedures.

13.2 Police Checks

- (a) Before any person commences performing work on any part of the Services, the Provider must, at its own cost:
 - (i) obtain a Police Check for that person; and
 - (ii) ensure that the person holds all licences or permits for the capacity in which they are to be engaged, and the Provider must ensure that Police Checks and any licences or permits obtained in accordance with this clause 13.2(a) remain current for the duration of their involvement in the Services.
- (b) The Provider must ensure that a person does not perform work on any part of the Services if a Police Check indicates that the person at any time has:
 - (i) a Serious Record; or
 - (ii) a Criminal or Court Record and the Provider has not conducted a risk assessment and determined that any risk is acceptable.

- (c) In undertaking a risk assessment under clause 13.2(b)(ii), the Provider must have regard to:
- (i) the nature and circumstances of the offence(s) on the person's Criminal or Court Record;
 - (ii) whether the person's Criminal or Court Record is directly relevant to, or reasonably likely to impair the person's ability to perform, the role that the person will, or is likely to, perform in relation to the Services;
 - (iii) the length of time that has passed since the person's charge or conviction and his or her record since that time; or
 - (iv) any other relevant matter,
- and must ensure it fully documents the conduct and outcome of the risk assessment.
- (d) The Provider agrees to Notify the Lead Agency of any risk assessment it conducts under clause 13.2(b)(ii) and agrees to provide the Lead Agency with copies of any relevant documentation on request.
- (e) If during the Head Agreement Period a person involved in performing work on any part of the Services is:
- (i) charged with a Serious Offence or Other Offence, the Provider must immediately Notify the Lead Agency; or
 - (ii) convicted of a Serious Offence, the Provider must immediately Notify the Lead Agency and ensure that that person does not, from the date of the conviction, perform any work or role relating to the Services.

13.3 Removal of Provider's Personnel

- (a) The Lead Agency may require the Provider to remove and replace any of the Provider's Personnel from performing the Services, including:
- (i) if the Provider's Personnel fail to observe and conform to the Lead Agency Policies and Procedures;
 - (ii) if the Provider's Personnel fail to comply with any Law;
 - (iii) if the Provider's Personnel fail to comply with any workplace health and safety requirements of this Head Agreement;
 - (iv) if the Lead Agency, in its sole and absolute discretion, is of the opinion that the standards, competence or performance of any of the Provider's Personnel falls below the standards, competence or performance required of the Provider's Personnel or under this Head Agreement; and
 - (v) to protect people or property.
- (b) Where the Provider is required to replace the Provider's Personnel, the Provider must:
- (i) immediately implement a temporary workaround so as to prevent or minimise any interruption to the provision of the Services arising from the removal of each affected person;

- (ii) as soon as reasonably practicable:
 - A. replace the Provider's Personnel with another appropriately qualified, competent and experienced person; or
 - B. identify existing members of the Provider's Personnel to fill each affected person's position in providing the Services; and
- (iii) keep the Lead Agency and any affected Agency informed as to the progress of the process to replace the relevant person.
- (c) Any requirement to replace any of the Provider's Personnel during the Head Agreement Period (whether at the request of the Lead Agency or not) will not constitute an act or event that is beyond the reasonable control of the Provider in meeting the requirements of this Head Agreement.

13.4 Use of Key Provider Personnel

The Provider must:

- (a) ensure that its Key Provider Personnel undertake the tasks applicable to their role, including as set out in the relevant Contract;
- (b) before replacing any Key Provider Person, give the Lead Agency as much prior Notice as possible and provide information about the proposed replacement, proposed training and any other implications that are likely to result from the replacement of the Key Provider Person; and
- (c) replace any Key Provider Personnel in accordance with clause 13.3(b) if required to do so by the Lead Agency.

13.5 Personnel related expenses

The Provider is responsible for all payments to its Personnel providing Services under this Head Agreement, including payment by way of salary, remuneration or commissions, bonuses, annual leave, long service leave, personal leave, termination, redundancy, taxes, superannuation or worker's compensation premiums and liabilities.

14. Documentation

14.1 Provision of Documentation

- (a) The Provider must develop the Documentation as required under the Statement of Requirements or a Work Order.
- (b) The Provider must submit to the Lead Agency in accordance with clause 14.3 any Documentation specified in the Statement of Requirements as being subject to the Lead Agency's Approval.
- (c) The Provider must submit to an Agency in accordance with clause 14.4 any Documentation specified in a Work Order or the Statement of Requirements as being subject to the Agency's Approval.
- (d) The Provider must provide the Documentation is electronically, unless otherwise directed by the Agency or Lead Agency (as relevant).

14.2 Standard of Documentation

The Documentation must:

- (a) be fit for its intended purpose in accordance with this Head Agreement and relevant Work Order;
- (b) be acceptable to in terms of presentation and scope;
- (c) be in the English language; and
- (d) meet or exceed any applicable requirements set out in the Statement of Requirements (including the Service Requirements) and any Work Order.

14.3 Approval of Documentation by the Lead Agency

- (a) For any Documentation specified in the Statement of Requirements as subject to the Lead Agency's Approval, the Provider must submit that Documentation to the Lead Agency:
 - (i) in accordance with the timeframes for review and Approval set out in the Statement of Requirements; and
 - (ii) to enable the Lead Agency to thoroughly review it for Approval and with sufficient time for the Provider to make such further amendments as may be required to ensure its Approval by the date required by the Lead Agency.
- (b) The Lead Agency will review the relevant Documentation against the requirements set out in clause 14.2. On completion of the review, the Lead Agency must give the Provider Notice that:
 - (i) the Documentation meets the applicable requirements, set out in the Statement of Requirements; or
 - (ii) the Documentation does not meet the applicable requirements set out in the Statement of Requirements and the reasons why it does not meet those requirements.
- (c) If the Lead Agency gives the Provider Notice that the Documentation does not meet the applicable requirements set out in clause 14.2, the Provider must:
 - (i) within 10 Business Days; and
 - (ii) at no additional cost to the Lead Agency,
correct the Documentation so that it meets or exceeds the requirements and resubmit a revised version to the Lead Agency for its review in which case clause 14.3(b) applies.

14.4 Approval of Documentation by an Agency

- (a) For any Documentation specified in the Statement of Requirements or a Work Order as subject to an Agency's Approval, the Provider must submit that Documentation to the Agency:
 - (i) in accordance with the timeframes for review and Approval set out in the Statement of Requirements or relevant Work Order; and

- (ii) to enable the Agency to thoroughly review it for Approval and with sufficient time for the Provider to make such further amendments as may be required to ensure its Approval by the date required by the Agency.
- (b) The Agency will review the relevant Documentation against the requirements set out in clause 14.2. On completion of the review, the Agency must give the Provider Notice that:
 - (i) the Documentation meets the applicable requirements, set out in the Work Order or Statement of Requirements (including the Service Requirements); or
 - (ii) the Documentation does not meet the applicable requirements set out in the Work Order or Statement of Requirements (including the Service Requirements) and the reasons why it does not meet those requirements.
- (c) If the Agency gives the Provider Notice that the Documentation does not meet the applicable requirements set out in clause 14.2, the Provider must:
 - (i) in accordance with any applicable timeframes specified in the Service Requirements or otherwise within 10 Business Days; and
 - (ii) at no additional cost to the Agency,

correct the Documentation so that it meets or exceeds the requirements and resubmit a revised version to the Agency for its review in which case clause 14.4(b) applies.

Section B – Performance Management

15. Performance assessments

15.1 Performance assessments

- (a) The Lead Agency may undertake a performance assessment of the Provider's performance at such times as the Lead Agency determines, but not more than once per year during the Head Agreement Period.
- (b) The Provider must report on its performance delivering the Services (including its achievement of the Service Standards) in the manner and at the times, as requested by the Lead Agency.
- (c) The Lead Agency will consider any mitigating circumstances relating to the Provider's performance. Failure to provide, or inability to secure, adequate and/or appropriately trained resources to deliver the Services will not be considered a mitigating circumstance.

15.2 Lead Agency's rights following performance assessment

- (a) The Lead Agency will provide the Provider with a report setting out the results of the performance assessment.
- (b) Without limiting any of the Lead Agency's other rights under this Head Agreement or at Law, if the performance assessment has identified performance issues, the Lead Agency will assist the Provider to develop a Remediation Plan in accordance with clause 16.3 to rectify the performance issues. The Lead Agency will monitor the Provider's implementation of the Approved Remediation Plan.

- (c) The Provider acknowledges that its performance may be taken into account by any Agency in considering whether to award the Provider future Contracts for the delivery of Services.

15.3 Service Standards

- (a) The Provider acknowledges that the Lead Agency may amend the Service Standards or implement new Service Standards during the Head Agreement Period to measure the Provider's performance. The Lead Agency will provide the Provider with reasonable Notice of any such updated Service Standards or new Service Standards.
- (b) Where the Service Standards are updated or new Service Standards are implemented in accordance with clause 15.3(a), the Provider must meet or exceed any such new or updated Service Standards.

16. Resolving problems

16.1 General

Without limiting any of the Lead Agency's or an Agency's other rights under this Head Agreement or at Law, if:

- (a) the Lead Agency identifies performance issues in the course of a performance assessment conducted in accordance with clause 15.1; or
- (b) the Lead Agency or an Agency considers on reasonable grounds that there has been, is, or will be:
 - (i) any problem or failure to provide any of the Services; or
 - (ii) a breach of an obligation in the Head Agreement or any Contract,

the Lead Agency or an Agency (as relevant) may, at its absolute discretion and by providing Notice to the Provider, immediately exercise one or more of the options specified in this clause 16.

16.2 Directions

- (a) The Provider must comply with any reasonable directions provided by the Lead Agency in relation to the Head Agreement or an Agency in relation to any Contract, as set out in a Notice issued under clause 16.1.
- (b) If the direction given by the Lead Agency or Agency under this clause 16.2 is unclear (e.g. the direction could be implemented in more than one way) or may adversely affect the performance of the Provider's obligations under the Head Agreement or any Contract, the Provider must:
 - (i) consult with the Lead Agency or Agency (as relevant); and
 - (ii) follow any subsequent direction by the Lead Agency or Agency (as relevant) as to how the initial direction must be implemented.

16.3 Remediation Plan

- (a) If required by a Notice provided by the Lead Agency in relation to the Head Agreement or an Agency in relation to a Contract under clause 16.1, the Provider must develop and submit a draft Remediation Plan in accordance with the time period specified in the Notice.

- (b) The draft Remediation Plan must set out a detailed plan of the steps the Provider must take to address the relevant matter and the dates by which those steps will be completed, so that the impacts of the problem are avoided or mitigated to the Lead Agency's or Agency's satisfaction (as relevant) and so that the problem (or any similar or related problem) does not occur again.
- (c) The Lead Agency or Agency (as relevant) must, within five Business Days following the date on which a draft Remediation Plan is received by the Lead Agency or Agency (as relevant):
 - (i) Approve the draft Remediation Plan, in which case the draft Remediation Plan will become the Approved Remediation Plan; or
 - (ii) acting reasonably, request amendments to the draft Remediation Plan, in which case the Provider must make the amendments and resubmit the draft Remediation Plan for the Lead Agency's or Agency's Approval (as relevant), within two Business Days following receiving the request. If Approved by the Lead Agency or Agency, the amended draft Remediation Plan will become the Approved Remediation Plan.
- (d) The Provider must comply with the Approved Remediation Plan.
- (e) If the Provider fails to comply with the terms of a Remediation Plan that has been Approved by the Lead Agency or Agency in accordance with this clause 16.3, then:
 - (i) the Lead Agency may immediately suspend the Head Agreement, in accordance with clause 16.4; or
 - (ii) the Lead Agency may immediately terminate this Head Agreement for cause under clause 47.2; or
 - (iii) the Agency may immediately terminate the Contract for cause under clause 47.3.

16.4 Suspension

- (a) The Lead Agency may by Notice under clause 16.1, suspend any or all of the following, until otherwise Notified by the Lead Agency:
 - (i) the Provider from being issued requests for quotes or Work Orders, in whole or in part; or
 - (ii) access to the ORAMS Portal.
- (b) In respect of a Contract, an Agency may by Notice under clause 16.1, suspend either or both of the following, until otherwise Notified by the Agency:
 - (i) the Provider from delivering Services under the Contract, in whole or in part (including in respect of one or more Service Regions); or
 - (ii) any payment under the Contract (including a payment to be made by Comcare for compensation services under the SRC Act), in whole or in part.
- (c) If the Lead Agency suspends the Provider from the Panel under clause 16.4(a)(i), in whole or in part, the Provider must during the period of suspension commencing on the date specified in the relevant Notice from the Lead Agency and ending on the date Notified by the Lead Agency not accept any new Work Orders in accordance with the relevant Notice.

- (d) If an Agency suspends the Provider from delivering Services under clause 16.4(b)(i), in whole or in part, the Provider must during the period of suspension commencing on the date specified in the relevant Notice from the Agency and ending on the date Notified by the Agency immediately cease delivering the Services in accordance with the relevant Notice.
- (e) Notwithstanding any action taken by the Lead Agency or an Agency under this clause 16.4, the Provider must continue to perform its obligations under this Head Agreement or any Contract, subject to any Notice under clause 16.4(b)(i) to suspend delivering the Services, in whole or in part.

17. Step-in Rights

17.1 Circumstances in which an Agency is entitled to exercise Step-in Rights

If a Step-in Event occurs, an Agency may elect to exercise the Step-in Rights by giving the Provider at least two Business Days prior Notice.

17.2 Exercise of Step-in Rights

- (a) If under clause 17.1, an Agency exercises its Step-in Rights, then the Agency may nominate a person:
 - (i) to step-in and temporarily take or assume total or partial management and control of the provision of the Services; and
 - (ii) take any such steps as in the opinion of the Agency are necessary or desirable to continue the provision of the Services or to cure the default or other circumstance giving rise to the exercise of the Step-in Rights, including the procurement of a third party to provide all or any component of the Services.
- (b) On an Agency exercising its Step-in Rights:
 - (i) the Provider's management of its rights and obligations under the Contract is suspended to the extent necessary to permit the Agency to exercise those Step-in Rights;
 - (ii) the Provider must promptly provide the Agency with any information (as requested by the Agency) to enable full and effective exercise of the Agency's Step-in Rights, including details of any subcontracts entered into by the Provider in connection with the provision of the Services; and
 - (iii) the Provider must:
 - A. to the extent required by the Agency or any person nominated by the Agency, make available to the Agency or such other person as nominated by the Agency all rights and benefits of the supplies and services under existing supply and subcontract agreements; and
 - B. take all reasonable steps to assist the Agency and any person nominated by the Agency to fully exercise the Agency's rights under this clause 17.

17.3 Access

For the purposes of exercising the Step-in Rights, the Agency or any person nominated by the Agency may:

- (a) direct the use of the equipment and supplies which are reasonably required by the Agency to facilitate the exercise of its Step-in Rights;
- (b) have access to the Provider's premises and equipment; and
- (c) direct the use of any material held by the Provider that the Agency reasonably considers necessary for the proper exercise of its Step-in Rights.

17.4 Charges and costs

- (a) If an Agency has exercised Step-in Rights, then for as long as and to the extent that those Step-in Rights are being exercised in accordance with this clause 17 and this prevents the Provider from providing all or part of the Services, the Fees in respect of the affected part of the Services will be:
 - (i) determined in accordance with Schedule 4, calculated by reference to the extent to which the Services are actually being provided by the Provider or by the Agency through the exercise of its Step-in Rights;
 - (ii) less the greater of:
 - A. the amount the Agency reasonably determines to be the amount of operating costs (excluding GST) not incurred by the Provider by reason of the Agency exercising its Step-in Rights; and
 - B. the amount of operating costs actually incurred by the Agency in delivering the relevant Services; and
 - (iii) less the costs incurred by the Agency in curing the default or minimising the risk resulting from the Step-in Event.
- (b) If at the time for the payment of any Fees, the sum of the amounts described in clauses 17.4(a)(ii) and 17.4(a)(iii) exceeds the total Fees determined in accordance with clause 17.4(a) the Provider must promptly pay an amount equal to that excess to the Agency.

17.5 No liability for the Agency

The Agency or any person nominated by an Agency under this clause 17 will not be liable to the Provider for any Damages suffered by the Provider arising out of or in connection with the exercise of its Step-in Rights except where there is a fraudulent or negligent act or omission by the Agency.

17.6 Duration

If an Agency has exercised its Step-in Rights, the Agency may cease to exercise any Step-in Rights at any time.

17.7 Step-in Rights additional to other rights

- (a) An Agency's Step-in Rights are in addition to, and do not limit in any way, any other rights and remedies available to the Agency under a Contract or under general principles of law or equity.

- (b) An Agency is not obliged in any way to remedy or cure any default or Step-in Event or to overcome or mitigate any risk or risk consequences in respect of which the Agency exercises Step-in Rights.

17.8 Step-out

- (a) On an Agency ceasing to exercise any Step-in Rights, the Provider must as soon as reasonably practicable recommence performance of those of the Provider's obligations under the Contract which were suspended pursuant to clause 17.2(b)(i).
- (b) An Agency will, at the cost and expense of the Provider, give reasonable assistance to the Provider to ensure that the process of the Agency ceasing to exercise Step-in Rights and the Provider recommencing to perform its obligations is effected as efficiently as possible.
- (c) Subject to the Provider complying with its obligations under this clause 17, if an Agency has exercised its Step-in Rights, to the extent the Agency has taken actions or failed to take actions that impede the performance of the Provider under a Contract, the Provider will not be held responsible for that failure to perform.

Section C – Governance and management

18. Governance framework under a Contract

18.1 General responsibilities of the parties

Each party will comply with the governance and management requirements set out in the Statement of Requirements and any Work Order.

18.2 Contract administration

- (a) An Agency will appoint an Agency Representative. The Agency Representative is the contact person for the Provider in relation to all matters relating to a Contract. The Agency Representative may authorise another person to act on their behalf.
- (b) The Provider will appoint a Provider Representative. The Provider Representative is the contact person for the Provider in relation to all matters relating to a Contract.
- (c) The Provider may nominate another person to replace the Provider Representative by Notice to the Agency Representative.
- (d) If the Provider nominates a person to replace the Provider Representative under clause 18.2(c), the Agency must Notify the Provider as to whether or not the nomination has been accepted (including reasons if not accepted). If the Agency notifies the Provider that a nomination is not accepted, the Provider must promptly nominate another person to replace the person.

18.3 Liaison and compliance

The Provider must:

- (a) liaise with and provide information to an Agency as reasonably requested by the Agency;
- (b) refer all third-party requests for information in relation to the provision of the Services or access to the Provider (or a Subcontractor) to an Agency; and
- (c) comply with an Agency's reasonable requests and directions.

19. Contract management

- (a) The parties will participate in meetings as set out in the Statement of Requirements or any Work Order (or as otherwise determined by an Agency) to discuss any issues in relation to the provision of the Services.
- (b) The parties may agree to hold the meetings by telephone, electronically or in person.
- (c) An Agency may, by Notice to the Provider, issue any reasonable direction in respect of a report or plan requested by the Agency specifying one or more of the following:
 - (i) information the Provider is to include in the report; and
 - (ii) the person or persons who is to certify that information contained in the report is accurate.
- (d) The Provider must keep sufficiently detailed written records of the management of the Services in a form, and with the content, that is sufficient to enable proper auditing by an Agency or its representatives.

Section D – Information management

20. Intellectual Property Rights

20.1 Pre-existing Material and Third Party Material

This clause 20 does not affect the ownership of the Intellectual Property Rights in any Pre-existing Material or Third Party Material.

20.2 Third Party Material

The Provider must obtain all necessary copyright and other Intellectual Property Rights permissions before making any Third Party Material available for the purpose of this Head Agreement or the Services.

20.3 Intellectual Property Rights in Developed Material

- (a) All Intellectual Property Rights in the Developed Material vest in the Provider on creation.
- (b) To the extent that an Agency or the Lead Agency needs to use any of the:
 - (i) Pre-existing Material or Third-Party Material provided by the Provider; or
 - (ii) Developed Material,in connection with this Head Agreement, a Contract or the Services, or for any other Agency or Commonwealth purpose, the Provider grants to, or must obtain for, the Agency or Lead Agency (as relevant) a perpetual, irrevocable, world-wide, royalty-free, non-exclusive (including the right to sublicense) to use, reproduce, adapt, modify, communicate, distribute and publish that material.
- (c) The licence granted to an Agency and the Lead Agency under clause 20.3(b) does not include a right to exploit the Pre-existing Material or Third Party Material for the Lead Agency's or Agency's commercial purposes.

20.4 Agency Material

To the extent that the Provider needs to use any of the Agency Material for the purpose of performing its obligations under this Head Agreement or any Contract, the Lead Agency or relevant Agency grants to the Provider, subject to any direction by the Lead Agency or the Agency, a royalty-free, non-exclusive, non-transferable licence to use, reproduce, adapt, modify and communicate such material solely for that purpose.

20.5 Ownership of Agency Data

- (a) The Provider agrees that:
 - (i) all right, title and interest in Agency Data remains vested in the Lead Agency or an Agency (as relevant) and that the Provider's right to use or possess Agency Data is granted solely for the purpose of fulfilling its obligations in this Head Agreement or any Contract; and
 - (ii) all Intellectual Property Rights in Created Data (whether existing in a tangible or intangible form or format) will vest absolutely in the Lead Agency or an Agency on its creation, and the Provider assigns all of its existing and future right, title and interest (including all Intellectual Property Rights) in Created Data to the Lead Agency or relevant Agency.
- (b) The Provider must comply with any directions of, or conditions imposed by the Lead Agency or an Agency in relation to Agency Data.

20.6 Delivery of Developed Material, Created Data and Agency Data

- (a) On the expiration or earlier termination of the Head Agreement or a Contract or on such earlier date as may be specified by the Lead Agency or an Agency, the Provider must deliver to the Lead Agency or the Agency (as relevant) a complete copy of:
 - (i) all Developed Material;
 - (ii) all Created Data; and
 - (iii) Agency Data,or deal with it as otherwise directed by the Lead Agency or the Agency (as relevant).
- (b) The Provider may retain, or may permit any of its Approved Subcontractors to retain, one copy of Agency Data and Created Data, for so long as the Agency Data and Created Data is required by Law to be kept. The Provider must, in retaining the Agency Data and Created Data, comply with its obligations under this Head Agreement and any Contract.

20.7 Warranty

The Provider warrants that:

- (a) the Warranted Materials and the Lead Agency's or an Agency's use of the Warranted Materials will not infringe the Intellectual Property Rights of any person; and
- (b) it has the necessary rights to vest the Intellectual Property Rights and grant the licences as provided for in this clause 20.

20.8 Remedy for breach of warranty

If someone claims, or the Lead Agency or an Agency reasonably believes that someone is likely to claim, that all or part of the Warranted Materials infringe their Intellectual Property Rights, the Provider must, in addition to the indemnity under clause 27, and to any other rights that the Lead Agency or Agency may have against it, promptly, at the Provider's expense:

- (a) use its best efforts to secure the rights for the Lead Agency or the Agency to continue to use the affected Warranted Materials free of any claim or liability for infringement; or
- (b) replace or modify the affected Warranted Materials so that the Warranted Materials or the use of them does not infringe the Intellectual Property Rights of any other person without any degradation of the performance or quality of the affected Warranted Materials.

21. Moral Rights

21.1 Obtaining consents

To the extent permitted by applicable Laws and for the benefit of the Lead Agency and any Agency, the Provider must use its best endeavours to ensure that each of the Provider's Personnel used in the production or creation of the Developed Material gives genuine consent in writing, in a form acceptable to the Lead Agency or Agency (as relevant), to the Specified Acts, even if such an act would otherwise be an infringement of their Moral Rights.

21.2 Specified Acts

In this clause 21, Specified Acts means:

- (a) falsely attributing the authorship of any Developed Material, or any content in the Created Material (including without limitation literary, dramatic, artistic works and cinematograph films within the meaning of the *Copyright Act 1968* (Cth));
- (b) materially altering the style, format, colours, content or layout of the Developed Material and dealing in any way with the altered Developed Material or infringing copies (within the meaning of the *Copyright Act 1968* (Cth));
- (c) reproducing, communicating, adapting, publishing or exhibiting any Developed Material including dealing with infringing copies, within the meaning of the *Copyright Act 1968* (Cth), without attributing the authorship; and
- (d) adding any additional content or information to the Developed Material.

22. Protection of Agency Data

22.1 Use of Agency Data

The Provider must not (and must ensure that its Personnel do not):

- (a) use Agency Data held by the Provider, or which the Provider has access to, other than for the purposes of fulfilling its obligations under this Head Agreement or any Contract;
- (b) allow any person, unless authorised by the Lead Agency or an Agency, to access or use Agency Data;
- (c) purport to sell, let for hire, assign rights in or otherwise dispose of Agency Data;

- (d) purport to commercially exploit Agency Data (or allow any Subcontractor or a Subcontractor's Personnel to do so); or
- (e) alter Agency Data in any way, other than in the course of and to the extent necessary in providing the Services.

22.2 Safeguarding Agency Data

- (a) The Provider must establish and maintain safeguards against the destruction, loss, unauthorised access or alteration of Agency Data in the possession or control of the Provider that comply with all Laws and any procedures or requirements specified by the Lead Agency or an Agency from time to time.
- (b) The Provider agrees that the Lead Agency or an Agency may, at any time, with reasonable Notice, conduct a security audit of the Provider's compliance with this clause 22.2, including the right to undertake a security risk assessment, threat risk assessment or privacy impact assessment.

22.3 Removal of Agency Data

- (a) The Provider must not, and must ensure that the Provider's Personnel do not take, transfer, transmit or disclose Agency Data or allow Agency Data to be taken, transferred, transmitted, accessed or disclosed outside of Australia.
- (b) The prohibition in clause 22.3(a) applies in respect of taking, transferring, transmitting, accessing or otherwise disclosing Agency Data outside of Australia by the Provider:
 - (i) within the Provider's own organisation; and
 - (ii) to any third party, including to any Subcontractor or Service Provider.

22.4 Subcontracts

The Provider must ensure that any subcontract entered into for the purpose of fulfilling its obligations under this Head Agreement or any Contract imposes on the Subcontractor the same obligations as the Provider has under this clause 22, including the requirement in relation to subcontracts.

Section E – Payment and charges

23. Payment of Fees

23.1 Agency to pay charges

- (a) Subject to the Provider's provision of the Services in accordance with the requirements of the relevant Contract, an Agency will pay the Provider the Fee.
- (b) The Fee will be payable in accordance with the provisions of this clause 23, Schedule 4 (Fee Methodology) and the applicable Work Order subject to:
 - (i) the receipt of a correctly rendered invoice in accordance with clause 23.5 for an amount properly due under the Contract; and
 - (ii) completion, to an Agency's reasonable satisfaction, of the relevant part of the Services to which the payment relates.

- (c) The Provider acknowledges and agrees that:
 - (i) the rates applied by the Provider must not exceed the specified fixed fee or maximum hourly rates specified in Schedule 4 (Fee Methodology); and
 - (ii) subject to clause 24, the Fee is inclusive of all taxes, travel and accommodation costs (in accordance with 3 of Schedule 4 (Fee Methodology) and all incidental and ancillary costs and expenses of whatever nature.
- (d) An Agency will not be liable to pay for any fees, charges, costs or expenses (including travel and accommodation expenses) in addition to the Fee, unless:
 - (i) the Provider provides the Agency with appropriate evidence and justification for the relevant fee, charge, cost or expense; and
 - (ii) the Agency approves the relevant fee, charge, cost or expense.

23.2 Payment

- (a) An Agency may defer payment of any part of the Fees until the Provider has completed, to the Agency's satisfaction, the Services to which the proposed payment relates and complied with the provisions of this clause 23.2.
- (b) On receipt of an invoice, an Agency must pay the Provider or ensure that Comcare (for compensation services under the SRC Act) pays the Provider:
 - (i) within five calendar days of receipt of a correctly rendered e-invoice, if the Agency, Comcare and the Provider have the capability to deliver and receive e-invoices through the Pan-European Public Procurement On-Line framework and agree to deliver and receive e-invoices through the Pan-European Public Procurement On-Line framework; or
 - (ii) within 20 calendar days of receipt of a correctly rendered e-invoice, if the Agency, Comcare and the Provider have the capability to deliver and receive e-invoices through a digital platform (such as Medipass) and agree to deliver and receive e-invoices through that digital platform;
 - (iii) in all other instances, within 20 calendar days of receipt of a correctly rendered invoice by the Agency; and
 - (iv) if the relevant period set out in clauses 23.2(b)(i) or 23.2(b)(ii) ends on a day that is not a Business Day, the due date for payment is the next Business Day.

23.3 Electronic payment

An Agency or Comcare (for compensation services under the SRC Act), will effect payment by electronic funds transfer direct to the Provider's bank account as notified by the Provider to the Agency or to Comcare (as relevant).

23.4 Right to defer payment

- (a) An Agency may (in addition and without prejudice to any other right the Agency may have) defer, reduce or not make a payment under clause 23.1 if and for so long as the Provider has not completed, to the Agency's satisfaction, that part of the Services to which the payment relates.

- (b) If an Agency exercises its rights under clause 23.4(a), the Provider must continue to perform any obligations under the Contract, unless the Agency agrees otherwise in writing.

23.5 Provider to provide invoice

- (a) The Provider must provide a correctly rendered invoice to:
 - (i) an Agency; and
 - (ii) for compensation services under the SRC Act, Comcare,for the Fees in accordance with the requirements specified in this clause 23, Schedule 4 (Fee Methodology) and the relevant Work Order.
- (b) The Provider must ensure that it:
 - (i) has, at the time it makes a claim for a payment, sufficient documentary evidence to prove that the Provider has delivered the relevant Services in accordance with, or otherwise has relevantly complied with, the Contract;
 - (ii) has a valid ABN;
 - (iii) immediately notifies the Lead Agency if it ceases to have a valid ABN;
 - (iv) correctly quotes its ABN on all documentation provided to an Agency and the Lead Agency;
 - (v) supplies proof of its GST registration if requested by the Lead Agency; and
 - (vi) immediately notifies the Lead Agency of any changes to its GST status.
- (c) The Provider must invoice all Fees within 12 months of the date of provision of the relevant Services. An Agency will not be liable to pay any Fees invoiced 12 months or more after the date of the provision of the relevant Service.

23.6 Payment of simple interest

- (a) This clause 23.6 only applies where:
 - (i) an Agency (or Comcare for compensation services under the SRC Act) fails to pay an invoice within the timeframes specified in clause 23.2(b); and
 - (ii) the amount of interest payable exceeds \$100.
- (b) Interest payable under this clause 23.6 will be simple interest on the unpaid amount at the General Interest Charge Rate, calculated in respect of each day from the day after the amount was due and payable, up to and including the day that an Agency (or Comcare for compensation services under the SRC Act) effects payment as represented by the following formula:

$$SI = UA \times GIC \times D:$$

where:

$$SI = \text{simple interest amount;}$$

- UA = the unpaid amount;
- GIC = General Interest Charge daily rate; and
- D = the number of days from the day after payment was due up to and including the day that payment is made. "The day that payment is made" is the day when the Agency's system generates a payment request into the banking system for payment to the Provider.

23.7 Payment Times Procurement Connected Policy

- (a) In this clause 23.7:
- (i) **Correctly Rendered PT PCP Subcontractor Invoice** means an invoice which is:
 - A. rendered in accordance with all of the requirements of the written contract (note that written contracts will often specify that the invoice must be a tax invoice and/or that certain information must be included in the invoice and/or the format of the invoice); and
 - B. for amounts that are correctly calculated and due for payment and payable under the terms of the written contract;
 - (ii) **PTR Act** means *Payment Times Reporting Act 2020* (Cth), as amended from time to time, and includes a reference to any subordinate legislation made under this Act;
 - (iii) **PT PCP** means the Payment Times Procurement Connected Policy of the Commonwealth, as amended from time to time (available at <https://treasury.gov.au/publication/p2021-183909>);
 - (iv) **PT PCP Policy Team** means the relevant Minister, Agency or authority that administers or otherwise deals with the PT PCP on the relevant day;
 - (v) **PT PCP Evaluation Questionnaire** means a questionnaire in substantially the form of Appendix C of the PT PCP;
 - (vi) **PT PCP Purpose** means:
 - A. the review, evaluation, monitoring, assessment and reporting on the PT PCP, including the compliance by those Lead Agency's suppliers and their subcontractors that are Reporting Entities; or
 - B. improving payment times to PT PCP Subcontractors.
 - (vii) **PT PCP Remediation Plan** means a written remediation plan substantially in the form of Appendix D of the PT PCP;
 - (viii) **PT PCP Subcontract** means a subcontract between a Reporting Entity and another party (**Other Party**) where:
 - A. the subcontract is (wholly or in part) for the provision of the Services;
 - B. both parties are carrying on business in Australia; and

C. the component of the subcontract for the provision of goods or services for the purposes of this Head Agreement has a total value of less than (or is reasonably estimated will not exceed) \$1,000,000 (GST inclusive) during the period of the subcontract, not including any options, extensions, renewals or other mechanisms that may be executed over the life of the subcontract (but including work/official orders entered into that are valued up to \$1 million (GST inclusive) understanding offer (panel) arrangements),

but does not include the following subcontracts:

D. subcontracts entered into prior to the Reporting Entities' tender response for this Head Agreement;

E. subcontracts which contain standard terms and conditions put forward by the Other Party and which cannot reasonably be negotiated by the Reporting Entity; or

F. subcontracts for the purposes of:

1) procuring and consuming goods or services overseas; or

2) procuring real property, including leases and licences;

(ix) **PT PCP Subcontractor** means the party that is entitled to receive payment for the provision of goods or services under a PT PCP Subcontract;

(x) **Reporting Entity** has the meaning given in the PTR Act;

(xi) **Reporting Entity Subcontractor** means any person that:

A. is a Reporting Entity; and

B. provides goods or services directly or indirectly to the Provider for the purposes of a Contract where the value of such goods or services are estimated to exceed \$4,000,000 (GST inclusive).

(xii) 'Reporting Entity Subcontract' has a corresponding meaning.

(b) The Provider must comply with the PT PCP.

(c) If the Provider enters into a PT PCP Subcontract, the Provider must include in that subcontract:

(i) a requirement for the Provider to pay the PT PCP Subcontractor:

A. subject to clause 23.7(e), within 20 calendar days after the acknowledgement of the satisfactory delivery of the goods or services and receipt of a Correctly Rendered PT PCP Subcontractor Invoice. If this period ends on a day that is not a Business Day, payment is due on the next Business Day; and

B. subject to clause 23.7(f), for payments made by the Provider after the payment is due, the unpaid amount plus interest on

the unpaid amount calculated in accordance with clause 23.7(f);

- (ii) a statement that the PT PCP applies to that subcontract; and
 - (iii) a statement that the subcontractor may make a complaint to the PT PCP Policy Team or to the Lead Agency in accordance with the PT PCP if there has been non-compliance with the requirements of this clause 23.7(c).
- (d) If the Provider enters into a Reporting Entity Subcontract in anticipation of (or after) entering this Head Agreement, the Provider must use reasonable endeavours to include in that subcontract:
- (i) obligations equivalent to those in clause 23.7(b); and
 - (ii) a requirement that if the Reporting Entity Subcontractor in turn enters into a Reporting Entity Subcontract, then that subcontract will include:
 - A. obligations equivalent to those in clause 23.7(b); and
 - B. obligations equivalent to this clause 23.7(c)(ii) (such that the obligations in this clause 23.7(c)(ii) are to continue to be flowed down the supply chain to all Reporting Entity Subcontractors).
- (e) Clause 23.7(c)(i)A does not limit any obligation to comply with applicable legislation that provides for a shorter payment period than the period in clause 23.7(c)(i)A.
- (f) The Provider is not required to pay interest in accordance with clause 23.7(c)(i)B if either:
- (i) an Agency has failed to pay the Provider in accordance with the timeframes and requirements under this Head Agreement; or
 - (ii) the amount of the interest payable is less than \$100 (including GST).
- (g) Interest payable under clause 23.7(c)(i)B will be simple interest at the General Interest Charge Rate calculated in respect of each day from the day after the amount was due and payable, up to and including the day that the Provider makes the late payment.
- (h) If requested in writing by the Lead Agency, the Provider must properly complete and return a PT PCP Evaluation Questionnaire within 30 calendar days of the request.
- (i) If the Lead Agency considers or becomes aware that the Provider has not or may not have complied with:
- (i) the requirements of clauses 23.7(a) to 23.7(h); or
 - (ii) the payment requirements of a PT PCP Subcontract,
- the Lead Agency may direct the Provider to provide to the Lead Agency either or both of the following within the timeframes specified by the Lead Agency:
- (iii) information to enable the Lead Agency to review the Provider's compliance; or
 - (iv) a properly completed PT PCP Remediation Plan.

- (j) The Provider must complete all of the steps and activities contained in the PT PCP Remediation Plan provided under clause 23.7(i)(iv).
- (k) If the Lead Agency considers that the Provider has failed to comply with any of its obligations under this clause 23.7, without limiting the Lead Agency's rights and remedies at law or otherwise under this Head Agreement, the Lead Agency may do either or both of the following:
 - (i) take the failure or non-compliance into account as part of the Lead Agency's monitoring of the Provider's performance under this Head Agreement and any Contract; or
 - (ii) report the non-compliance (and provide a copy of the completed PT PCP Remediation Plan) to the PT PCP Policy Team.
- (l) The Provider agrees that if it is the subject of a complaint in relation to its compliance with clauses 23.7(a) to 23.7(h) or the associated payment provisions of a PT PCP Subcontract:
 - (i) it will not take any prejudicial action against the complainant due to the complaint or any investigation or inquiry in relation to the complaint; and
 - (ii) it will cooperate in good faith with the Lead Agency in connection with any investigation or inquiry and any attempt to resolve the complaint.
- (m) For any PT PCP Purpose, the Provider consents to the Lead Agency:
 - (i) using and sharing with an Agency the information provided by the Provider as part of a PT PCP Evaluation Questionnaire, a PT PCP Remediation Plan, or otherwise received or obtained by the Lead Agency in connection with this Head Agreement or a PT PCP Subcontract; and
 - (ii) receiving information obtained under, or in accordance with, the PTR Act from an Entrusted Person and using such information.
- (n) By submitting a PT PCP Evaluation Questionnaire or a PT PCP Remediation Plan or other document in connection with the PT PCP that includes any Personal Information, the Provider warrants and represents that it has obtained all necessary consents in accordance with relevant privacy Laws to the collection, use and disclosure of such information in the manner contemplated by clauses 23.7(m) to 23.7(n). The Provider will provide evidence of such consents to the Lead Agency on request.
- (o) A reference to the Lead Agency in clauses 23.7(h), 23.7(i), 23.7(l)(ii) and 23.7(m) - 23.7(n) includes the PT PCP Policy Team.

23.8 Incorrect invoices, under/over payment

If an invoice is found to have been rendered incorrectly after payment, any underpayment or overpayment will be recoverable by or from the Provider, as the case may be, and, without limiting recourse to other available means, may be offset against any amount subsequently owed by an Agency to the Provider.

23.9 Taxes

The Provider must pay all other taxes, duties and government charges imposed or levied in Australia or overseas in connection with the performance of this Head Agreement or any Contract.

24. GST

24.1 Interpretation

In this clause 24, a word or expression defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) has the meaning given to it in that Act.

24.2 Consideration is GST exclusive

Any consideration to be paid or provided for a supply made under or in connection with this Head Agreement unless specifically described in this Head Agreement as 'GST inclusive', does not include an amount on account of GST.

24.3 GST gross up

If a party (Supplier) makes a supply under or in connection with this Head Agreement in respect of which GST is payable (not being a supply the consideration for which is specifically described in this Head Agreement as 'GST inclusive'), the recipient of the supply (Recipient) must pay to the Supplier, an additional amount equal to the GST payable on the supply (GST Amount).

24.4 Reimbursements

If an Agency reimburses the Provider for a loss, cost or expense, the amount to be reimbursed is first reduced by any input tax credit the Provider is entitled to for the loss, cost or expense. The Provider will be presumed to be entitled to claim input tax credits.

24.5 Exclusion of GST from calculations

If a payment is calculated by reference to or as a specified percentage of another amount or revenue stream, that payment will be calculated by reference to or as a specified percentage of the amount or revenue stream exclusive of GST.

24.6 Adjustments

- (a) If an adjustment event arises in respect of a taxable supply made by a supplier under this Head Agreement, the amount payable by the recipient under clause 24.3 will be recalculated to reflect the adjustment and a payment will be made by the Recipient to the Supplier or by the supplier to the recipient as the case requires. To avoid doubt, if the GST payable in relation to a supply made by the Provider is less than the amount the Provider has paid to the Commissioner of Taxation, the Provider is obliged to pay a refund of the GST to an Agency regardless of whether it receives a refund of that GST from the Commissioner of Taxation.
- (b) Any payment, credit or refund under this clause 24.6 is deemed to be a payment, credit or refund of the GST Amount payable under clause 24.3.
- (c) If an adjustment event occurs in relation to a supply, the Supplier must issue an adjustment note to the Recipient in relation to that supply as soon as it becomes aware of the adjustment.

24.7 Tax invoice

An Agency need not make a payment for a taxable supply made under or in connection with this Head Agreement until it receives a tax invoice or adjustment note, as applicable, for the supply to which the payment relates properly addressed to the Agency.

Section F - Risk management

25. Notifiable Events

25.1 Disclosure

- (a) The Provider must promptly (or otherwise within no later than 3 Business Days) Notify and fully disclose to the Lead Agency if any of the following occurs:
- (i) a Change in Control of the Provider; or
 - (ii) any event or occurrence actual or threatened during the performance of this Head Agreement which:
 - A. may materially affect the Provider's ability to perform any of its obligations under this Head Agreement or the Services; or
 - B. how the Services are perceived publicly, including an event that may impact on the Provider's financial viability;
 - (iii) any adverse comments or findings made by a court, commission, tribunal or other statutory or professional body regarding the conduct or performance of the Provider, the Provider's Personnel, or an Approved Subcontractor that impacts or could be reasonably perceived to impact on their professional capacity, capability, fitness or reputation; or
 - (iv) any other significant matters, including the commencement of legal, regulatory or disciplinary action involving the Provider, the Provider's Personnel, or an Approved Subcontractor, that may adversely impact on compliance with Commonwealth policy and legislation or the Commonwealth's reputation,
- and each event set out in clauses 25.1(a)(i) to 25.1(a)(iv) is a Notifiable Event.
- (b) Following Notification of a Notifiable Event, the Provider must promptly comply with any request from the Lead Agency to:
- (i) provide updates on the progress of the Notifiable Event;
 - (ii) discuss the impact on the Services (if any) of the Notifiable Event; and
 - (iii) provide information regarding:
 - A. how the Provider will address or manage the Notifiable Event in the context of the Services;
 - B. how the Provider will ensure events similar to the Notifiable Event do not occur again (if relevant); and
 - C. any other information reasonably requested by the Lead Agency.

25.2 Conflict of interest

- (a) Without limiting clause 25.1, the Provider:
 - (i) undertakes that, to the best of its knowledge, as at the Commencement Date, no conflict of interest exists or is likely to arise in the performance of its obligations under this Head Agreement and any Contract by itself or by any of its Personnel; and
 - (ii) must Notify the Lead Agency immediately if such a conflict or risk of such a conflict of interest arises.
- (b) The Provider agrees that it will not, and will use its best endeavours to ensure that any of the Provider's Personnel do not, engage in any activity or obtain any interest during the course of this Head Agreement that is likely to conflict with or restrict the Provider in undertaking the Services fairly and independently.

25.3 Subcontracts

The Provider must ensure that any subcontract entered into for the purpose of this Head Agreement or any Contract contains an equivalent clause granting the rights specified in this clause 25.

25.4 Resolution

- (a) Within five Business Days after giving Notice under clause 25.1(a)25.1(a)(ii) or 25.2(a), the Provider must inform the Lead Agency of the steps it will take to resolve the issue. If the Lead Agency considers those steps are inadequate, it may direct the Provider to resolve the issue in a manner proposed by the Lead Agency.
- (b) If the Provider is unable or unwilling to resolve the issue in the required manner, the Lead Agency may give the Provider a Notice of termination for cause.

26. Liability

26.1 Limit on liability

- (a) The liability of a party for breach of the Contract in tort or for any other common law or statutory cause of action arising out of the operation of the Contract, will be determined under the relevant Law in Australia that is recognised, and would be applied, by the High Court of Australia.
- (b) The Provider acknowledges and agrees that the Lead Agency has no liability under any Contract, unless it has entered into a Contract as a customer.
- (c) The liability of each party for Loss suffered or incurred by the other party arising out of or in connection with a Contract is, subject to clause 26.1(d), limited to the liability limit amount specified in the Work Order.
- (d) The liability limit amount specified in the Work Order does not apply to any liability in respect of:
 - (i) personal injury, sickness or death;
 - (ii) loss of or damage to real or tangible property;
 - (iii) any breach of any obligation in respect of security, confidentiality or privacy;

- (iv) the infringement of the Intellectual Property Rights of a third party; or
- (v) any breach of any Law or any malicious or wilful act or omission.

26.2 Contribution

A party's liability for any Losses will be reduced proportionately to the extent that any Loss was caused or contributed to by:

- (a) the negligent act or omission of the other party or its Personnel; or
- (b) any failure of the other party or its Personnel to comply with its obligations under this Head Agreement or the relevant Contract.

27. Indemnity

27.1 Indemnity by the Provider

The Provider indemnifies an Agency and its Personnel against any Losses sustained or incurred by the Agency and its Personnel as a result of a Claim made or threatened by a third party arising out of or in connection with:

- (a) any act or omission of the Provider or the Provider's Personnel that causes:
 - (i) personal injury (including sickness and death) to any person;
 - (ii) loss of, or damage to, tangible property;
- (b) any fraudulent, negligent, unlawful or wilfully wrong act or omission of the Provider or the Provider's Personnel;
- (c) a breach of the Provider's or the Provider's Personnel's obligations relating to security, privacy and the protection of Confidential Information, Personal Information or Agency Data;
- (d) an allegation that any Services infringes the Intellectual Property Rights or Moral Rights of a third party; and
- (e) any breach by the Provider of its obligations under a Contract.

27.2 Agency's obligations

Where an Agency wishes to enforce an indemnity under clause 27.1 it must:

- (a) give written Notice to the Provider as soon as practical;
- (b) make reasonable efforts to mitigate the relevant Loss;
- (c) subject to the Provider agreeing to comply at all times with clause 27.3, permit the Provider, at the Provider's expense, to handle all negotiations for settlement and, as permitted by Law, to control and direct any settlement negotiation or litigation that may follow; and
- (d) in the event that the Provider is permitted to handle negotiations or conduct litigation on behalf of the Agency under clause 27.2(c), provide all reasonable assistance to the Provider in the handling of any negotiations and litigation.

27.3 Provider's obligations

The requirements referred to in clause 27.2(c) are that the Provider must:

- (a) comply with government policy and obligations, as if the Provider were an Agency, relevant to the conduct of the litigation and any settlement negotiation (including the Legal Services Directions) and any direction issued by the Attorney General to the Commonwealth or delegate;
- (b) keep an Agency informed of any significant developments relating to the conduct of the defence or settlement of any claim; and
- (c) provide an Agency with such information and documentation as are reasonably requested by the Agency, to enable the Agency to ascertain whether the defence or settlement by the Provider of any claim is being conducted in accordance with the requirements of the Legal Services Directions, including any requirements relating to legal professional privilege and confidentiality.

28. Insurance

28.1 Insurance coverage

- (a) The Provider must ensure that by the Commencement Date and for the duration of:
 - (i) the Head Agreement Period;
 - (ii) any Contract Term; and
 - (iii) any additional period specified in Item 9 of the Head Agreement Details,the Provider has in place:
 - (iv) satisfactory insurance including, at a minimum, the insurance policies or coverage as specified in Item 9 of the Head Agreement Details; and
 - (v) any other insurance required by Law in the jurisdiction in which the Provider is carrying out activities for the purposes of this Head Agreement.

28.2 Additional insurance coverage

- (a) The Provider must ensure that it has in place any additional insurance as specified in a Work Order.
- (b) The Provider acknowledges and agrees that clause 28.1 takes priority to the extent that any insurance requirements specified in a Work Order impose less coverage than specified in clause 28.1.

28.3 Evidence

The Provider must provide to the Panel Manager satisfactory evidence certifying that it has the insurance required by this clause 28:

- (a) on or before the Commencement Date;
- (b) on each anniversary of the Commencement Date; and
- (c) at any other time that the Lead Agency requests.

28.4 Subcontractor and Service Provider insurance

- (a) Any Subcontractors engaged by the Provider must carry insurance similar to that required of the Provider, taking into consideration the nature, scope and volume of Services being provided by the Subcontractor. The Provider must ensure that each Subcontractor has and maintains that insurance during the period in which it is providing such Services.
- (b) The Provider must ensure that any Service Provider providing Services who is not covered by the Provider's or a Subcontractor's professional indemnity and/or medical indemnity insurance policy, has and maintains during the period in which they are providing such Services, valid and enforceable insurance similar to that required of the Provider, taking into consideration the nature, scope and volume of Services being provided by the Service Provider.

29. Special rules about trustees

29.1 Trustee's warranties

If the Provider acts as trustee for a trust (the **Trust**) in relation to this Head Agreement, the Provider warrants to the Lead Agency that:

- (a) the Provider is the only trustee of the Trust;
- (b) the Provider has not been removed from, or ceased to act, or resigned or retired from the office of trustee of the Trust, nor has any decision or action been taken or proposed in respect of the removal, resignation or retirement of the Provider as trustee of the Trust, or to appoint an additional trustee of the Trust;
- (c) the Provider is not in default under the Trust deed;
- (d) the Provider has power under the Trust deed to enter into and observe the Provider's obligations under this Head Agreement;
- (e) the Provider has entered in this Head Agreement in its capacity as trustee of the Trust and for the benefit of the beneficiaries of the Trust;
- (f) the Provider has a right, and will at all times have a right, to be fully indemnified out of the assets of the Trust in respect of the obligations incurred by it under this Head Agreement;
- (g) the assets of the Trust are sufficient to satisfy that right of indemnity and all other obligations in respect of which the Provider has a right to be indemnified out of the trust fund; and
- (h) to the extent that the assets of the Trust are insufficient to satisfy any right of indemnity, the Provider holds professional indemnity insurance as required by clause 28.1(a)(iv) of this Head Agreement.

29.2 Provider's indemnity as trustee

The Provider indemnifies the Lead Agency against any liability or loss arising from, and any expenses (including, without limitation, legal costs and expenses on a full indemnity basis) incurred in connection with the following situations:

- (a) where a warranty made by the Provider under clause 29.1 is found to be incorrect or misleading when made or taken to be made; and/or
- (b) the Provider ceases to be the trustee of the Trust or any step is taken to appoint another trustee of the Trust.

Section G - Compliance

30. Confidentiality

30.1 Confidential information not to be disclosed

- (a) Subject to clause 30.3, a party must not, without the prior written consent of the other party, disclose any Confidential Information of the other party to a third party.
- (b) In giving written consent to the disclosure of Confidential Information, a party may impose such conditions as it thinks fit, and the other party agrees to comply with these conditions.

30.2 Written undertakings

- (a) A party may at any time require the other party to arrange for:
 - (i) its advisers; or
 - (ii) any other third party, other than a Commonwealth officer or employee or an officer or employee of the Commonwealth or a Commonwealth authority, to whom information may be disclosed pursuant to clause 30.3(a) or (e),to give a written undertaking in the form set out in Schedule 5 (or such other form as agreed by the parties) relating to the use and non-disclosure of the other party's Confidential Information.
- (b) If the other party receives a request under clause 30.2(a), it must promptly arrange for all such undertakings to be given.

30.3 Exceptions to obligations

The obligations on the parties under this clause 30 will not be taken to have been breached to the extent that Confidential Information:

- (a) is disclosed by a party to its advisers or Personnel to enable them to perform those roles or in order to comply with obligations, or to exercise rights, under this Head Agreement;
- (b) is disclosed to a party's internal management personnel, solely to enable effective management or auditing of Head Agreement or Contract related activities;
- (c) is disclosed by the Lead Agency or an Agency to the responsible Minister;
- (d) is disclosed by the Lead Agency or an Agency, in response to a request by a House or a Committee of the Parliament of the Commonwealth of Australia;
- (e) is shared by the Lead Agency or an Agency within the Lead Agency's or Agency's organisation, or with an Agency, where this serves the Commonwealth's legitimate interests;
- (f) is authorised or required by Law, including under this Head Agreement, a Contract, under a licence or otherwise, to be disclosed; or
- (g) is in the public domain otherwise than due to a breach of this clause 30.

30.4 Obligation on disclosure

Where a party discloses Confidential Information to another person:

- (a) pursuant to clauses 30.3(a), (b) or (e), the disclosing party must:
 - (i) Notify the receiving person that the information is Confidential Information; and
 - (ii) not provide the information unless the receiving person agrees to keep the information confidential; or
- (b) pursuant to clauses 30.3(c) and (d), the disclosing party must Notify the receiving party that the information is Confidential Information.

30.5 Additional confidential information

The parties may agree in writing after the Commencement Date that certain additional information is to constitute Confidential Information for the purposes of this Head Agreement.

30.6 Period of confidentiality

The obligations under this clause 30 continue, notwithstanding the expiry or termination of this Head Agreement or any Contract:

- (a) in relation to an item of information described in Item 10 of the Head Agreement Details, for the period set out in this Head Agreement Details in respect of that item;
- (b) in relation to an item of information specified as Confidential Information in a Work Order, for the period set out in the relevant Work Order in respect of that item; and
- (c) in relation to any information which the parties agree in writing after the date of this Head Agreement is to constitute Confidential Information for the purposes of this Head Agreement or any Contract, for the period agreed by the parties in writing in respect of that information.

30.7 No reduction in privacy obligations

Nothing in this clause 30 derogates from any obligation which either party may have either under relevant privacy legislation and standards, including the Privacy Act as amended from time to time, or under this Head Agreement, in relation to the protection of Personal Information.

31. Protection of Personal Information

31.1 Application of the clause

This clause 31 applies only where the Provider collects, holds, manages, uses, discloses or otherwise deals with Personal Information for the purpose of, performing the Services, but does not derogate from any obligation the Provider may have under the Law (including relevant State or Territory privacy legislation and standards) or under this Head Agreement or any Contract in relation to the protection of Personal Information.

31.2 Definitions

In this clause 31, **agency**, **Australian Privacy Principles**, **contracted service provider**, **Personal Information** and **Registered APP Code** have the meaning given in the Privacy Act.

31.3 Obligations

The Provider acknowledges that it is a contracted service provider, and agrees in respect of the performance of the Services:

- (a) to use or disclose Personal Information obtained during the course of performing the Services, only for:
 - (i) the purposes of this Head Agreement and any Contract; and
 - (ii) the purposes for which the Personal Information was provided or collected;
- (b) except where this clause 31 expressly requires the Provider to comply with an Australian Privacy Principle that applies only to an organisation, to comply with, and at all times act in a manner that is consistent with, the obligations contained in the Australian Privacy Principles as if it were an agency, including:
 - (i) developing and implementing practices, procedures and systems:
 - A. to ensure the Provider complies with the Australian Privacy Principles;
 - B. that will enable an Agency to comply with the Australian Privacy Principles; and
 - C. that will enable the Provider to deal with inquiries or complaints from individuals about the Provider's or the Services' compliance with the Australian Privacy Principles or any registered APP code binding on the Provider; and
 - (ii) maintaining records of the Personal Information held by the Provider in relation to this Head Agreement and any Contract;
- (c) not to do any act or engage in any practice that would breach an Australian Privacy Principles if done or engaged in by an Agency;
- (d) to maintain reasonable safeguards against loss, unauthorised access, use, modification or disclosure and other misuse of Personal Information held in connection with this Head Agreement and any Contract;
- (e) to obtain privacy consents from Personnel and Service Providers prior to their Personal Information being uploaded to the ORAMS Portal;
- (f) without derogating from any other obligations of the Provider under Law or otherwise, the Provider must assist the Lead Agency or any Agency to enable any person, on request, to ascertain in respect of Personal Information:
 - (i) whether the Provider has possession or control of any records that contain such Personal Information;
 - (ii) the nature of the information;
 - (iii) the main purposes for which the Personal Information is used by the Provider; and
 - (iv) the steps that the person should take if the person wishes to obtain access to the Personal Information;

- (g) to immediately Notify the Lead Agency and the relevant Agency or Agencies if the Provider becomes aware:
 - (i) of a breach or possible breach of any of the obligations contained in, or referred to in, this clause 31, whether by the Provider or any of its Subcontractors or Service Providers;
 - (ii) that a disclosure of Personal Information may be required by Law; or
 - (iii) of an approach to the Provider by the Australian Information Commissioner or by an individual claiming that their privacy has been interfered with;
- (h) not to transfer Personal Information outside of Australia, or to allow parties outside Australia to have access to it;
- (i) to comply with any directions, rules, guidelines, determinations or recommendations of the Lead Agency or the Office of the Australian Information Commissioner, to the extent that they are not inconsistent with the requirements of this clause 31; and
- (j) that the Service Partner's name may be published in reports by the Office of the Australian Information Commissioner.

31.4 Eligible Data Breach

- (a) If the Provider has reasonable grounds to suspect there may have been an event which amounts to an Eligible Data Breach in relation to any Personal Information the Provider holds as a result of this Head Agreement or its performance of the Services, the Provider must:
 - (i) immediately, and no later than the Business Day after the Provider becomes so aware, Notify the impacted Agency or Agencies and the Lead Agency;
 - (ii) comply with its obligations under the Privacy Act in relation to that event;
 - (iii) unless otherwise directed by the Lead Agency, carry out an assessment as to whether there are reasonable grounds to believe that there has been an Eligible Data Breach in accordance with the requirements of the Privacy Act;
 - (iv) provide the impacted Agency or Agencies and the Lead Agency (as relevant) with all information requested by the impacted Agency or Agencies and the Lead Agency about the event; and
 - (v) if requested, allow the impacted Agency or Agencies and the Lead Agency to participate in the Provider's assessment of the event and whether it amounts to an Eligible Data Breach.
- (b) If the Provider is aware, including after complying with clause 31.4(a), that there are reasonable grounds to believe that there has been, or where an Agency or the Lead Agency Notifies the Provider that there has been, an Eligible Data Breach in relation to any Personal Information the Provider holds as a result of this Head Agreement or its performance of the Services, the Provider must:
 - (i) take all reasonable action to mitigate the risk of the breach causing serious harm to any of the individuals to whom the Personal Information relates;

- (ii) take all other action necessary to comply with the requirements of the Privacy Act (including, subject to clause 31.4(c), preparing a statement for the Australian Information Commissioner and notifying affected individuals about the Eligible Data Breach where required); and
 - (iii) take any other action as reasonably directed by the impacted Agency or Agencies or the Lead Agency, or the Australian Information Commissioner.
- (c) If notification of an Eligible Data Breach is required under the Privacy Act, the Provider must:
 - (i) immediately inform the impacted Agency or Agencies and the Lead Agency;
 - (ii) if requested by the impacted Agency, discuss with the impacted Agency and endeavour to agree which Party will issue the notification;
 - (iii) if a discussion under clause 31.4(c)(ii) is not requested by the impacted Agency, comply with the relevant notification requirements under the Privacy Act; and
 - (iv) if the impacted Agency makes a request under clause 31.4(c)(ii) but the Parties cannot agree which Party will issue the notification within two Business Days after meeting (or such other period agreed in writing), the impacted Agency will determine which Party will issue the notification, and if that Party is the Provider, the Provider must comply with the relevant notification requirements under the Privacy Act.
- (d) If the Provider is to issue a notification under clause 31.4(c), then the Provider must:
 - (i) as soon as possible, but within two Business Days, and prior to notifying the Australian Information Commissioner or affected individuals of the Eligible Data Breach, provide the impacted Agency with a draft of the notification;
 - (ii) make any changes to the draft notification that are reasonably required by the impacted Agency prior to notifying the Australian Information Commissioner or affected individuals of the Eligible Data Breach; and
 - (iii) issue the notification in accordance with the requirements of the Privacy Act (including any applicable time periods).
- (e) If the impacted Agency is to issue a notification under clause 31.4(c), then the impacted Agency will:
 - (i) as soon as possible, but within five Business Days, Notify the Provider and provide a draft of the notification;
 - (ii) make any changes to the notification that are reasonably required by the Provider for consistency with the Privacy Act; and
 - (iii) issue the notification in accordance with the requirements of the Privacy Act (including any applicable time periods).
- (f) If the Provider, after complying with clause 31.4(a), determines that an Eligible Data Breach has not occurred, the Provider must provide all reasonable assistance, including any information requested by the impacted Agency, to allow the impacted Agency to assess the event and whether it amounts to an Eligible Data Breach.

- (g) The Provider must ensure that any impacted Agency and the Lead Agency are:
 - (i) promptly notified of any investigation or other action taken by the Office of the Australian Information Commissioner in connection with any actual or suspected Eligible Data Breach, or Notification in relation to that matter; and
 - (ii) kept informed in relation to that investigation or other action.
- (h) The parties acknowledge and agree that nothing in clause 31.4 affects their obligations under the Privacy Act.

31.5 Subcontracts and Provider Personnel

- (a) The Provider must ensure that any subcontract entered into for the purpose of fulfilling its obligations under this Head Agreement and any Contract contains provisions to ensure that the Subcontractor has the same awareness and obligations as the Provider has under this clause 31 including the requirement in relation to subcontracts.
- (b) The Provider must ensure that Provider Personnel (including to avoid doubt, Service Providers) who deal with Personal Information for the purposes of this Head Agreement or any Contract are aware of, and comply with, this clause 31.

32. Public announcements

- (a) The Provider must not make any public announcement or other statement which refers or is connected to this Head Agreement or any Contract, including on any matter related to the Services, without obtaining written approval from the Lead Agency.
- (b) Clause 32(a) does not apply to:
 - (i) announcements required by Law or the rules of any stock exchange or similar body on which the Provider is listed; or
 - (ii) routine marketing activities promoting the Provider's services or to information that is public knowledge other than by breach of this clause 32.
- (c) To avoid doubt, no right or obligation arising from this Head Agreement or any Contract is to be read or understood as limiting the Provider's right to enter into public debate regarding policies of the Australian Government, its agencies, employees, servants or agents.

33. Indigenous procurement policy

33.1 Indigenous procurement policy

- (a) It is Commonwealth policy to stimulate Indigenous entrepreneurship and business development, providing Indigenous Australians with more opportunities to participate in the economy (see [Indigenous Procurement Policy](#) for further information).
- (b) The Provider must use its reasonable endeavours to increase its:
 - (i) purchasing from Indigenous enterprises; and
 - (ii) employment of Indigenous Australians,

in the delivery of the Services.

- (c) Purchases from Indigenous enterprises may be in the form of engagement of an Indigenous enterprise as a Subcontractor and use of Indigenous suppliers in the Provider's supply chain.
- (d) The Provider must provide written reports and evidence of its compliance with this clause 33 every year during the Contract Term.
- (e) If at any time during the Contract Term the value of a Contract exceeds \$7.5 million (GST inclusive), the Contract may become subject to Indigenous participation requirements for the purposes of the Indigenous Procurement Policy and unless otherwise directed by the Agency in writing, the Provider must:
 - (i) within 20 Business Days of the date from which the Contract value exceeds \$7.5 million, develop an Indigenous Participation Plan that addresses:
 - A. how the Provider will meet the mandatory minimum Indigenous participation requirements of the Indigenous Procurement Policy;
 - B. the Provider's current rates of Indigenous employment and Indigenous supplier use;
 - C. the Provider's commitment to Indigenous participation; and
 - D. if any part of the Contract is being or will be delivered in a Remote Area, how the Provider will ensure that its provision of Services will deliver significant Indigenous employment or Indigenous supplier use outcomes in that Remote Area; and
 - (ii) submit the draft Indigenous Participation Plan to the Agency for its review and Approval.
- (f) Upon Approval of the draft Indigenous Participation Plan under clause 33.1(e)(ii), the Provider must:
 - (i) comply with the Indigenous Participation Plan; and
 - (ii) report against its compliance with the Indigenous Participation Plan quarterly during the Contract Term; and
 - (iii) comply with any directions issued by the Agency in relation to the Agency's implementation of the Indigenous Participation Plan.

34. Shadow Economy Procurement Connected Policy

- (a) The Provider warrants that as at the Commencement Date it holds a Valid and Satisfactory Statement of Tax Record.
- (b) The Provider must hold a Valid and Satisfactory Statement of Tax Record at all times during the Head Agreement Period and, on request by the Lead Agency and in a timely manner, provide to the Lead Agency a copy of any such Statement of Tax Record.
- (c) The Provider warrants in relation to any Subcontractor it has engaged to deliver the Services with an estimated value of over \$4 million (GST inclusive) that the Provider either:

- (i) provided a Valid and Satisfactory Statement of Tax Record for the Subcontractor as part of its response for the approach to market that resulted in the entry of this Head Agreement; or
 - (ii) holds a Valid and Satisfactory Statement of Tax Record for the Subcontractor that was Valid at the time of entry into the subcontract by the Provider and the Subcontractor.
- (d) The Provider must ensure that any Subcontractor engaged to deliver the Services with an estimated value of over \$4 million (GST inclusive) holds a Valid and Satisfactory Statement of Tax Record at all times during the term of the relevant subcontract and must, on request by the Lead Agency, provide to the Lead Agency a copy of any such Statement of Tax Record.
- (e) If the Provider is a partnership, the Provider must ensure that if a new partner joins the partnership that a Valid and Satisfactory Statement of Tax Record for that partner is provided to the Lead Agency as soon as possible after they become a partner to the partnership.
- (f) Without limiting its other rights under this Head Agreement or at Law, any failure by the Provider to comply with the requirements outlined in this clause 34 will be a breach of this Head Agreement.

35. Modern slavery

- (a) In this clause 35 "**Modern Slavery**" has the same meaning as it has in the *Modern Slavery Act 2018* (Cth).
- (b) The Provider must take reasonable steps to identify, assess and address risks of Modern Slavery practices in the operations and supply chains used in the provision of the Services.
- (c) If at any time the Provider becomes aware of Modern Slavery practices in the operations and supply chains used in the performance of this Head Agreement or any Contract, the Provider must as soon as reasonably practicable take all reasonable action to address or remove these practices, including where relevant by addressing any practices of other entities in its supply chains.

36. Workplace Gender Equality Act 2012 (Cth)

36.1 Application

This clause 36 applies only to the extent that the Provider is a 'relevant employer' for the purposes of the *Workplace Gender Equality Act 2012* (Cth).

36.2 Compliance

The Provider must:

- (a) comply with its obligations, if any, under the *Workplace Gender Equality Act 2012* (Cth); and
- (b) Notify the Panel Manager if it becomes non-compliant with the *Workplace Gender Equality Act 2012* (Cth) during the Head Agreement Period.

36.3 Letter of compliance

The Provider must provide a current letter of compliance within 18 months from the Commencement Date and following this, on the anniversary of the Commencement Date, to the Panel Manager.

36.4 Other obligations preserved

Compliance with the *Workplace Gender Equality Act 2012* (Cth) does not relieve the Provider from its responsibility to comply with its other obligations under this Head Agreement.

37. Freedom of information

- (a) In this clause 37, '**document**' and '**Commonwealth contract**' have the same meaning as in the *Freedom of Information Act 1982* (Cth).
- (b) The Provider acknowledges that this Head Agreement and any Contract is a Commonwealth contract.
- (c) Where the Lead Agency or an Agency has received a request for access to a document created by, or in the possession of, the Provider or any Subcontractor that relates to the performance of the Services, the Agency may at any time by Notice require the Provider to provide the document to the Lead Agency or Agency and the Provider must, at no additional cost to the Agency, promptly comply with the Notice.
- (d) The Provider must assist the Lead Agency or an Agency in respect of the Agency's obligations under the *Freedom of Information Act 1982* (Cth), as required by an Agency.
- (e) The Provider must include in any subcontract relating to the performance of this Head Agreement, or any Contract provisions, that will enable the Provider to comply with its obligations under this clause 37.

38. Illegal workers

- (a) The Provider must ensure that all its employees, agents, and any other person engaged to carry out the Services, including those engaged by any Subcontractors, are at all times:
 - (i) Australian citizens; or
 - (ii) in the case of persons who are not Australian citizens, are not Illegal Workers.
- (b) The Provider must remove or cause to be removed any Illegal Worker from any involvement in the carrying out of Services and arrange for their replacement at no cost to an Agency immediately if it becomes aware of the involvement of the Illegal Worker. The Provider must immediately Notify the Lead Agency and the affected Agency of the involvement of the Illegal Worker and the removal.
- (c) To avoid doubt, compliance with the Provider's obligations under this clause 38 will not give rise to an entitlement to claim any delay or otherwise excuse the Provider from compliance with its obligations under this Head Agreement or any Contract.
- (d) When requested by an Agency, the Provider will provide evidence that it has taken all reasonable steps to ensure it has complied and is complying with its obligations under this clause 38, including in relation to any Subcontractors.

- (e) The Provider must provide an Agency with evidence referred to in clause 38(d) within five Business Days of receiving the Agency's request.
- (f) For the purposes of this clause 38, **'Illegal Worker'** means a person who:
 - (i) has unlawfully entered and remains in Australia;
 - (ii) has lawfully entered Australian, but remains in Australia after his or her visa has expired; or
 - (iii) is working in breach of his or her visa conditions.

39. Work health and safety

39.1 General obligations

- (a) The Provider must, in carrying out this Head Agreement and any Contract, comply with:
 - (i) all relevant legislation, codes of practice and national standards relating to work health and safety, including in relation to consultation, representation and participation; and
 - (ii) comply with all applicable policies and procedures relating to work health and safety, including those that apply to an Agency's premises when using those premises.
- (b) The Provider acknowledges that it will meet its obligations under this clause 39 solely at its own cost and expense, and without charge to or reimbursement from an Agency.
- (c) In the event of any inconsistency between any of the policies and procedures referred to in clause 39.1(a)(ii) the Provider must comply with those policies and procedures that produce the highest level of health and safety.
- (d) The Provider must:
 - (i) ensure, so far as is reasonably practicable, the health and safety of the Provider's Personnel while those Provider's Personnel are at work in relation to this Head Agreement and any Contract;
 - (ii) consult, co-operate and coordinate with the Lead Agency and an Agency in relation to its workplace health and safety duties;
 - (iii) on request, give all reasonable assistance to an Agency, by way of provision of information and documents, to assist the Agency and its officers to comply with their duties under the WHS Laws; and
 - (iv) comply with any direction of the Lead Agency or an Agency relating to specified measures which the Lead Agency and the Agency considers are reasonably necessary for work health and safety.
- (e) If an event happens in relation to the Provider's performance of this Head Agreement or any Contract that leads, or could lead, to the death, injury or illness of a person (**Notifiable Incident**), the Provider must:
 - (i) immediately Notify the Lead Agency and other affected Agencies of the Notifiable Incident and provide all relevant details;
 - (ii) as soon as possible after the Notifiable Incident:

- A. formally investigate the Notifiable Incident to determine, so far as is possible, its cause and what adverse effects it will have on the Provider's performance under this Head Agreement and any Contract and on health and safety; and
 - B. report to the Lead Agency and other affected Agencies the outcomes of the formal investigation; and
- (iii) take all reasonable steps to:
- A. remedy any effects of the Notifiable Incident on health and safety; and
 - B. ensure that an event or circumstance of the kind that caused the Notifiable Incident does not recur.

40. Security

40.1 Take reasonable precautions

The Provider must:

- (a) take reasonable precautions to protect information (including Personal Information and Agency Data) from improper access, disclosure or loss, including the following precautions:
 - (i) applying password or pass-phrase protection to all user accounts;
 - (ii) ensuring that generic or default passwords or pass-phrases are not applied to any admin accounts or any devices that are connected to the internet;
 - (iii) only procuring ICT services from suppliers of ICT services who are well-known and hold a good reputation; and
 - (iv) installing, and maintaining the installation of, the latest versions of anti-virus subscriptions on all systems in use and running active daily updates on such subscriptions;
- (b) implement any security requirements specified in the Statement of Requirements or any Contract; and
- (c) implement any additional security requirements notified by an Agency from time to time, including any changes to the requirements referred to in this clause 40.1. Such other security requirements must be complied with from the date specified in the Notice, or if none is specified, within five Business Days of receipt of the Notice.

40.2 Official Information

In relation to Official Information, the Provider must:

- (a) if and when requested by an Agency or the Lead Agency, arrange for it and its Personnel to promptly execute a declaration of interest and deed of non-disclosure, in a form reasonably required by the Agency or the Lead Agency, relating to the use and non-disclosure of Official Information in connection with this Head Agreement or a Contract;
- (b) promptly Notify and disclose to an Agency or the Lead Agency any conflict of interest affecting it or its Personnel that may impact on security in the performance

of the Provider's obligations with respect to Official Information under this Head Agreement or a Contract; and

- (c) promptly inform, and keep informed, its Personnel in respect of an Agency's or the Lead Agency's security requirements and the Provider's security obligations under this Head Agreement or a Contract, including that the obligation to maintain confidentiality of Official Information is ongoing (notwithstanding termination or expiry of this Head Agreement or a Contract or the Personnel's involvement with this Head Agreement or a Contract).

40.3 Security checks

- (a) The Lead Agency and an Agency may undertake any security checks it considers appropriate of the Provider or its Personnel.
- (b) If specified in a Work Order, the Provider must ensure that its Personnel delivering the relevant Services hold and maintain all necessary security clearances at the requisite levels and for the period specified in that Work Order.

40.4 Cyber Security

- (a) The Provider must:
 - (i) implement appropriate Cyber Security measures and systems and otherwise use reasonable endeavours to maintain its Cyber Security;
 - (ii) have in place appropriate plans and procedures to allow it to respond efficiently and effectively to a Cyber Incident; and
 - (iii) regularly test, audit and review its Cyber Security arrangements to verify its application in practice and maintain and keep records evidencing the same.
- (b) The Provider must use reasonable endeavours to ensure that any third party providing services on its behalf in connection with this Head Agreement complies with the terms of this clause 40.4.

40.5 Security incidents and Cyber Incidents

- (a) The Provider must Notify the Lead Agency immediately on becoming aware of any actual or suspected security incident or Cyber Incident.
- (b) The Provider agrees that if a security incident or Cyber Incident occurs, the Provider will immediately comply with all directions of the Lead Agency in order to address the security incident or Cyber Incident, including by:
 - (i) Notifying the Australian Cyber Security Centre, or any other relevant body, as required by the Lead Agency;
 - (ii) obtaining evidence about how, when and by whom the Provider's information system and/or the Agency Data has or may have been compromised, providing it to the Agency on request, and preserving and protecting that evidence for a period of up to seven years;
 - (iii) implementing any mitigation strategies to reduce the impact of the security incident or Cyber Incident or the likelihood or impact of any future similar incident; and

- (iv) preserving and protecting Agency Data (including as necessary reverting to any backup or alternative site or taking other action to recover Agency Data).
- (c) The Provider acknowledges that if any of the Provider's Personnel cause a security incident or Cyber Incident:
 - (i) the impacted Agency may:
 - A. after consultation with the Provider, require the replacement of that person; or
 - B. immediately terminate the Contract for cause under clause 47.3; and
 - (ii) the Lead Agency may immediately terminate this Head Agreement for cause under clause 47.2.

41. Compliance with policies and Law

41.1 General obligations of the Provider

- (a) The Provider must, at all times in carrying out this Head Agreement and any Contract:
 - (i) comply with, and require its Personnel to comply with all applicable Laws;
 - A. all regulations, by-laws and other legal requirements relevant to the provision of the Services; and
 - B. any policies of the Lead Agency or any Agency that are relevant to the provision of the Services, Notified by the Lead Agency or an Agency to the Provider; and
 - (ii) ensure that it does not place the Lead Agency or an Agency in breach of any relevant statutes, regulations or by-laws or relevant Commonwealth policy.
- (b) The Provider must, in relation to this Head Agreement and any Contract, at all times, act:
 - (i) in good faith towards an Agency and its Personnel; and
 - (ii) in a manner that maintains the good reputation of the Services.
- (c) The Provider must not engage in any practice that dishonestly or improperly manipulates by deception or other means, the Services with the intention of maximising payments to, or otherwise obtaining a benefit for, the Provider, a Related Body Corporate or any other person.
- (d) The Provider acknowledges that the giving of false or misleading information to the Commonwealth or other types of fraudulent conduct (as referenced in the Criminal Code) are serious offences under section 137.1 and Part 7.3 of the Criminal Code.
- (e) The Provider must advise its Personnel and Service Providers:
 - (i) that they are Commonwealth public officials for the purposes of section 142.2 of the Criminal Code; and

- (ii) that acting with the intention of dishonestly obtaining a benefit for any person is punishable by penalties including imprisonment.

42. Ombudsman investigations

The Provider acknowledges that:

- (a) it may be considered a '**Commonwealth Provider**' for the purposes of the *Ombudsman Act 1976* (Cth) and subject to investigation by the Ombudsman under that Act; and
- (b) an Agency will not be liable for the cost of any such investigation by the Ombudsman in connection with the subject matter of this Head Agreement.

43. Fraud

- (a) The Provider must:
 - (i) not engage in fraudulent activity in relation to this Head Agreement or any Contract; and
 - (ii) Notify the Lead Agency of any suspected or potential fraudulent activity.
- (b) The Provider must take all reasonable steps to prevent fraud upon the Commonwealth, including, if required by the Lead Agency, the implementation of an appropriate Fraud Control Plan, a copy of which must be provided to the Lead Agency on request.
- (c) If, after investigation, the Lead Agency determines that the Provider has been engaged in fraudulent activity, the Lead Agency may immediately terminate this Head Agreement under clause 47.2 and an Agency may terminate a Contract under clause 47.3.

44. Books and records

44.1 Provider to keep books and records

The Provider must:

- (a) keep and require its Subcontractors to keep adequate books and records, in accordance with Australian Accounting Standards, in sufficient detail to enable the amounts payable under any Contract to be determined; and
- (b) retain and require its subcontractors to retain for a period of seven years after the expiry or termination of this Head Agreement and any Contract all books and records relating to the Services.

44.2 Costs

The Provider must bear its own costs of complying with this clause 44.

44.3 Survival

This clause 44 applies for the Head Agreement Period and for a period of seven years from the expiry or termination of this Head Agreement and any Contract.

45. Audit and access

45.1 Right to conduct audits

The Lead Agency or an Agency may conduct audits relevant to the performance of the Provider's obligations under this Head Agreement and any Contracts. Audits may be conducted of:

- (a) the Provider's operational practices and procedures as they relate to this Head Agreement and the provision of the Services, including security procedures;
- (b) the accuracy of the Provider's invoices and reports in relation to the provision of the Services;
- (c) the Provider's compliance with its confidentiality, privacy and security obligations under this Head Agreement and any Contract;
- (d) material (including books and records) in the possession of the Provider relevant to the Services or this Head Agreement;
- (e) the financial statements of the Provider; and
- (f) any other matters determined by the Lead Agency or an Agency to be relevant to the Services.

45.2 Access by the Lead Agency or an Agency

- (a) The Lead Agency and an Agency may, at reasonable times and on giving reasonable Notice to the Provider:
 - (i) access the premises or Personnel of the Provider and those of any Subcontractor to the extent relevant to the performance of the Services and this Head Agreement;
 - (ii) inspect the premises of the Provider and those of any Subcontractor;
 - (iii) require the provision by the Provider, or its Personnel, of records and information relating to the provision of the Services in a data format and storage medium accessible by the Lead Agency or the Agency;
 - (iv) inspect and copy documentation, books and records relating to the provision of the Services, however stored, in the custody or under the control of the Provider or its Personnel; and
 - (v) require assistance in respect of any inquiry into or concerning the Services or this Head Agreement. For these purposes an inquiry includes any administrative or statutory review, audit or inquiry (whether within or external to the Agency), any request for information directed to the Agency, and any inquiry conducted by Parliament or any Parliamentary committee.
- (b) The Provider must provide access to its computer hardware and software to the extent necessary for the Lead Agency or an Agency to exercise its rights under this clause 45, and provide the Lead Agency or an Agency with any reasonable assistance requested by them to use that hardware and software.

45.3 Conduct of audit and access

The Lead Agency and an Agency must use reasonable endeavours to ensure that:

- (a) audits performed pursuant to clause 45.1; and
- (b) the exercise of the general rights granted by clause 45.2,

do not unreasonably delay or disrupt in any material respect the Provider's performance of its obligations under this Head Agreement or any Contract.

45.4 Costs

Each party must bear its own costs of any reviews and/or audits.

45.5 Auditor-General, Australian Information Commissioner Privacy Commissioner and Commissioner of the National Anti-Corruption Commission

The rights of the Lead Agency and an Agency under clause 45.2(a)(i) to 45.2(a)(v) apply equally to the Auditor-General, Australian Information Commissioner, Privacy Commissioner and Commissioner of the National Anti-Corruption Commission, or their delegate, for the purpose of performing the Auditor-General's, Australian Information Commissioner's, Privacy Commissioner's or Commissioner of the National Anti-Corruption Commission's statutory functions or powers.

45.6 Provider to comply with Auditor-General's, Australian Information Commissioner's, Privacy Commissioner's and Commissioner of the National Anti-Corruption Commission's requirements

The Provider must do all things necessary to comply with the Auditor-General's, Australian Information Commissioner's, Privacy Commissioner's or Commissioner of the National Anti-Corruption Commission's, or their delegate's requirements, notified under clause 45.2, provided such requirements are legally enforceable and within the power of the Auditor-General, Australian Information Commissioner, Privacy Commissioner or Commissioner of the National Anti-Corruption Commission, or their respective delegate.

45.7 No reduction in responsibility

The requirement for, and participation in, audits does not in any way reduce the Provider's responsibility to perform its obligations in accordance with this Head Agreement and any Contract.

45.8 Subcontractor requirements

The Provider must ensure that any subcontract entered into for the purpose of this Head Agreement or any Contract contains an equivalent clause granting the rights specified in this clause 45.

45.9 No restriction

Nothing in this Head Agreement reduces, limits or restricts in any way any function, power, right or entitlement of the Auditor-General, Australian Information Commissioner, Privacy Commissioner or Commissioner of the National Anti-Corruption Commission, or his or her delegate. The rights of an Agency under this Head Agreement or any Contract are in addition to any other power, right or entitlement of the delegate of the Auditor-General, Australian Information Commissioner, Privacy Commissioner or Commissioner of the National Anti-Corruption Commission.

45.10 Survival

This clause 45 applies for a period of seven years from the expiry or termination of this Head Agreement and any Contract.

Section H - Dispute resolution and termination

46. Dispute resolution

46.1 Dispute resolution and escalation

- (a) If a dispute arises in connection with this Head Agreement or any Contract the parties agree to use their best endeavours to resolve the dispute between them in accordance with this clause 46.
- (b) Disputes relating to the administration of:
 - (i) this Head Agreement will be discussed by the Provider and the Panel Manager; or
 - (ii) any Contract will be discussed by the Provider and the Agency Representative.
- (c) A party claiming that a dispute has arisen under this Head Agreement or any Contract will submit a Notice (**Notice of Dispute**) to the other party specifying:
 - (i) the nature of the dispute that has arisen;
 - (ii) the relief or outcome being sought; and
 - (iii) the representative of the party with the authority to negotiate and settle the dispute.
- (d) Within 10 Business Days of receipt of the Notice of Dispute, the parties must confer and attempt to resolve the dispute in good faith.
- (e) If the dispute is not resolved within the 10 Business Day period specified in clause 46.1(d) or within any other period as agreed between the parties (first period), the parties will engage in a mediation.

46.2 Mediation

- (a) Unless the parties agree to the contrary:
 - (i) the mediation will be conducted in the Australian Capital Territory;
 - (ii) the parties will engage an independent mediator, acceptable to each of the parties, to mediate the dispute within a time period agreed by the parties and the independent person.
- (b) The parties must pay the mediator's remuneration in equal shares. Each party must pay its own costs of the mediation.
- (c) The mediator may discuss the dispute with either party in the absence of the other.
- (d) If the dispute is not resolved within 20 Business Days after the appointment of the mediator or within any other period as agreed between the parties (second period), the parties may either submit to arbitration by agreement or institute legal proceedings.

46.3 Confidentiality

The parties must at all times maintain the confidentiality about all matters arising in the mediation, except to the extent that such matters are already public or to such extent as may be agreed between the parties or as required by Law.

46.4 Privilege

All discussion and negotiation during the mediation will be on a privileged 'without prejudice' basis unless such privilege is waived by the parties by agreement, either generally or in relation to any aspect. Neither of the parties may refer in any subsequent proceedings to any such privileged discussions and negotiations or require the mediator to do so, nor may either party have access to any of the mediator's notes or call the mediator as a witness in any proceedings.

46.5 Application of this clause

Nothing in this clause 46 prevents:

- (a) the Lead Agency exercising its rights to terminate this Head Agreement;
- (b) an Agency exercising its rights to terminate any Contract; or
- (c) a party from seeking urgent interlocutory relief before an appropriate court.

47. Termination

47.1 Termination and reduction for convenience

- (a) At any time and in its absolute discretion:
 - (i) the Lead Agency may terminate this Head Agreement (in whole or in part); or
 - (ii) an Agency may terminate the Contract (in whole or in part),for any reason, including for a machinery of government change, by providing at least 20 Business Days Notice to the Provider.
- (b) If this Head Agreement or any Contract is terminated under clause 47.1(a), the Lead Agency or an Agency (as relevant) is liable only for:
 - (i) payments for Services rendered in accordance with the relevant Contract before the effective date of termination; and
 - (ii) the reasonable costs actually incurred by the Provider which are directly attributable to the termination provided that:
 - A. the Provider has used its reasonable endeavours to mitigate those costs; and
 - B. those costs have not already been included under clause 47.1(b)(i).
- (c) In the case of terminating the Contract, an Agency is not liable to pay compensation under clause 47.1(b) in an amount which would, in addition to any amounts paid or due, or becoming due, to the Provider under a Contract, exceed the total Fees payable under that Contract.

- (d) The Provider is not entitled to compensation for loss of prospective profits or income or redundancy costs as a result of the Lead Agency or an Agency exercising its right of termination under this clause 47.1.

47.2 Termination and reduction of this Head Agreement for default

The Lead Agency may, at any time, by Notice, terminate this Head Agreement in whole or in part, where:

- (a) the Provider breaches a material provision of this Head Agreement where that breach is not capable of remedy;
- (b) the Provider breaches any provision of this Head Agreement and fails to remedy the breach within five Business Days (or such longer period as advised by the Lead Agency) after receiving Notice requiring it to do so;
- (c) in the opinion of the Lead Agency, a Conflict exists which would prevent the Provider from performing its obligations under this Head Agreement or any Contract;
- (d) there is a Change in Control of the Provider;
- (e) an Insolvency Event occurs or the Provider ceases, or threatens to cease, to conduct business; or
- (f) this Head Agreement otherwise provides that the Lead Agency may terminate it.

47.3 Termination and reduction of a Contract for default

An Agency may, at any time, by Notice, terminate a Contract in whole or in part, where:

- (a) the Provider breaches a material provision of the Contract where that breach is not capable of remedy;
- (b) the Provider breaches any provision of a Contract and fails to remedy the breach within five Business Days (or such longer period agreed in writing by the Agency) after receiving Notice requiring it to do so;
- (c) there is a Change in Control of the Provider;
- (d) an Insolvency Event occurs or the Provider ceases, or threatens to cease, to conduct business; or
- (e) there is any other express right to terminate under the relevant Contract.

47.4 Breach of a material provision

Without limitation, for the purposes of clause 47.2(a) and clause 47.3(a), each of the following constitutes a breach of a material provision of this Head Agreement or any Contract:

- (a) breach of warranty under clause 10.2 (Provider warranties);
- (b) a failure to comply with clause 20 (Intellectual Property Rights);
- (c) a failure to comply with clause 22 (Protection of Agency Data);
- (d) a failure to comply with clause 25 (Notifiable Events);
- (e) a failure to comply with clause 30.4 (Obligation on disclosure);

- (f) a failure to comply with clause 30 (Confidentiality);
- (g) a failure to comply with clause 31 (Protection of Personal Information);
- (h) a failure to comply with clause 40 (Security);
- (i) a failure to comply with clause 43 (Fraud); and
- (j) a failure to comply with clause 53.3 (Assignment and novation).

48. Consequences of expiry or termination

48.1 Consequences of expiry or termination of this Head Agreement

Unless otherwise directed by the Lead Agency in writing, the expiry or termination of this Head Agreement will not affect the validity of any Contracts between the parties which will each continue in accordance with their terms until their respective expiry or termination.

48.2 Obligations of the Provider

- (a) On receipt of a Notice of termination of this Head Agreement or any Contract or reduction of the Services, the Provider must:
 - (i) stop work as specified in the Notice;
 - (ii) comply with all directions given to the Provider by the Lead Agency or an Agency (as relevant);
 - (iii) take all available steps to minimise loss resulting from that termination or suspension and to protect Agency Data and Created Data;
 - (iv) deal with all Agency Data, Created Data and Developed Material, in accordance with clause 20.6; and
 - (v) continue work on any part of the Services not affected by the Notice.
- (b) If the scope of the Services is reduced, an Agency's liability to pay the Fees or to provide Agency Material, abates in accordance with the reduction in the Services.

48.3 Termination does not affect accrued rights

Termination of this Head Agreement or any Contract does not affect any accrued rights or remedies of a party.

49. Right of an Agency to recover money

- (a) Without limiting an Agency's rights or remedies under a Contract or at Law, if the Provider owes any debt to the Agency in relation to a Contract, the Agency may at its discretion do one or both of the following:
 - (i) deduct the amount of the debt from payment of any claim; or
 - (ii) give the Provider Notice of the existence of a debt recoverable which must be paid by the Provider within 20 Business Days of receipt of Notice.
- (b) Nothing in this clause 49 will affect the right of an Agency to recover from the Provider part of or the whole of any debt owed by the Provider, or any balance that remains owing after deduction.

50. Transition-out

50.1 Transition-out Period

The Transition-out Period commences on the earlier of:

- (a) six months before the end of the Head Agreement Period; and
- (b) if this Head Agreement is terminated before the end of the Head Agreement Period, the date on which a party issues a termination Notice,

and continues until:

- (c) if a Notice of termination has not been issued, the end of the Head Agreement Period; and
- (d) if a Notice of termination has been issued, three months after the date of the written Notice of termination or such other period agreed between the parties.

50.2 Transition-out obligations

The Provider must during the Transition-out Period:

- (a) implement any Transition-out Services specified in the Transition-out Plan;
- (b) provide all reasonable assistance required by the Lead Agency to ensure the orderly transfer of the provision of the Services from the Provider to:
 - (i) an Agency; or
 - (ii) another service provider nominated by the Lead Agency;
- (c) transfer to an Agency or the Lead Agency (as relevant) or another nominated service provider any Agency Data held by the Provider; and
- (d) use diligent efforts to identify and resolve, or assist the Lead Agency in the resolution of, any problems encountered in the timely completion of the Transition out.

Section I – General provisions

51. Survival

The following clauses survive the expiration or termination of this Head Agreement and any Contract:

- (a) clause 10.2 (Provider warranties);
- (b) clause 12 (Subcontracting);
- (c) clause 20 (Intellectual Property Rights);
- (d) clause 21 (Moral Rights);
- (e) clause 22 (Protection of Agency Data);
- (f) clause 24 (GST);
- (g) clause 26 (Liability);

- (h) clause 27 (Indemnity);
- (i) clause 28 (Insurance);
- (j) clause 30 (Confidentiality);
- (k) clause 31 (Protection of Personal Information);
- (l) clause 32 (Public announcements);
- (m) clause 37 (Freedom of information);
- (n) clause 40 (Security);
- (o) clause 42 (Ombudsman investigations);
- (p) clause 45 (Audit and access);
- (q) clause 46 (Dispute resolution);
- (r) clause 49 (Right of an Agency to recover money);
- (s) clause 50 (Transition out);
- (t) clause 51 (Survival); and
- (u) clause 52 (Notices and other communications).

52. Notices and other communications

52.1 Service of Notices

A Notice must be:

- (a) in writing, in English and signed by a person duly authorised by the sender; and
- (b) sent to the recipient's address for Notices specified in Item 11 of the Head Agreement Details or the Work Order, as varied by any Notice given by the recipient to the sender.

52.2 Effective on receipt

A Notice given in accordance with clause 52.1 takes effect when it is taken to be received (or at a later time specified in it), and is taken to be received if:

- (a) hand delivered, on delivery;
- (b) sent as an email, when the email enters the recipient's information system, unless the sender's information system receives a message within one Business Day that the email has not been delivered to the recipient; and
- (c) sent by prepaid post, on the second Business Day after the date of posting (or on the seventh Business Day after the date of posting if posted to or from a place outside Australia),

but if the delivery, receipt or transmission is not on a Business Day or is after 5.00pm on a Business Day, the Notice is taken to be received at 9.00am on the next Business Day.

53. Miscellaneous

53.1 Variation

No agreement or understanding varying or extending the terms and conditions of this Head Agreement or any Contract will be legally binding on either party unless the agreement or understanding is in writing, in the form of a formal deed of variation, and signed by the parties' authorised representatives.

53.2 Approvals and consents

Except where this Head Agreement or any Contract expressly states otherwise, a party may, in its discretion, give conditionally or unconditionally or withhold any approval or consent under this Head Agreement or any Contract.

53.3 Assignment and novation

- (a) Except where the Lead Agency or an Agency is permitted to do so under clause 53.3(c), a party must not assign this Head Agreement or any Contract (or any right under those documents), or purport to novate its obligations under this Head Agreement or any Contract, to any person unless it obtains the prior written consent of the other party, which will not be unreasonably withheld.
- (b) Where the Provider seeks to assign or novate its obligations under this Head Agreement or any Contract, it must provide the Lead Agency or the Agency (as relevant) with sufficient Notice to allow the Lead Agency or the Agency to properly consider whether to consent to the request.
- (c) The Lead Agency may assign its rights and novate its obligations under this Head Agreement and an Agency may assign its rights under any Contract to any person without the prior written consent of the Provider provided that the Lead Agency or the Agency (as relevant) has notified the Provider in writing of such assignment or novation.

53.4 Costs

- (a) Each party must pay its own costs of negotiating, preparing and executing this Head Agreement and any Contract.
- (b) Unless otherwise agreed by the Lead Agency, the Provider must pay any reasonable costs and expenses incurred by the Lead Agency to effect:
 - (i) a variation requested by the Provider under clause 53.1; or
 - (ii) an assignment or novation requested by the Provider under clause 53.3.

53.5 Counterparts

This Head Agreement or any Contract may be executed in counterparts. All executed counterparts constitute one document.

53.6 No merger

The rights and obligations of the parties under this Head Agreement and any Contract do not merge on completion of any transaction contemplated by this Head Agreement and any Contract.

53.7 Entire agreement

This Head Agreement and any Contract constitutes the entire agreement between the parties in connection with its subject matter and supersedes all previous agreements or understandings between the parties in connection with its subject matter.

53.8 Further action

Each party must do, at its own expense, everything reasonably necessary (including executing documents) to give full effect to this Head Agreement and any Contract and any transaction contemplated by it.

53.9 Severability

A term or part of a term of this Head Agreement or any Contract that is illegal or unenforceable may be severed from this Head Agreement and any Contract and the remaining terms or parts of the terms of this Head Agreement and any Contract continue in force.

53.10 Waiver

Waiver of any provision of or right under this Head Agreement or any Contract:

- (a) must be in writing signed by the party entitled to the benefit of that provision or right; and
- (b) is effective only to the extent set out in any written waiver.

53.11 Relationship of the parties

- (a) The Provider must not represent itself, and must ensure that its officers, employees, agents and Subcontractors do not represent themselves, as being an officer, employee, partner or agent of an Agency, or as otherwise able to bind or represent an Agency.
- (b) This Head Agreement and any Contract does not create a relationship of employment, agency or partnership between the parties.

53.12 Governing law and jurisdiction

This Head Agreement and any Contract is governed by the law of the Australian Capital Territory and each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of the Australian Capital Territory.

Appendix A – Head Agreement Details

Item number	Description	Clause reference	Details														
1.	Commencement Date	3.1	The later of: (a) 1 November 2023; or (b) the date that the last party signs this Head Agreement.														
2.	Initial Head Agreement Period	3.1	From the Commencement Date to 31 October 2026.														
3.	Extension Period	3.2	A maximum of two extension periods. The duration of each extension period is two years.														
4.	Approved Subcontractors	12	[Insert, if applicable]														
5.	Panel Manager	6.1	Assistant Director – Occupational Rehabilitation and Associated Medical Services														
6.	Provider Relationship Manager	6.2	[Insert details of the Provider Relationship Manager.]														
7.	Categories of Services	4.1(b)	<p>The Provider is permitted to provide:</p> <table border="1"> <thead> <tr> <th>Service category</th> <th>Yes/No</th> </tr> </thead> <tbody> <tr> <td>Occupational Rehabilitation Services</td> <td></td> </tr> <tr> <td>Medical Services (excluding Specialist Services)</td> <td></td> </tr> <tr> <td colspan="2">The following Specialist Services:</td> </tr> <tr> <td>1. Neuropsychological Assessments</td> <td></td> </tr> <tr> <td>2. Health Advisory Services</td> <td></td> </tr> <tr> <td>3. Specialist Audiometry Testing</td> <td></td> </tr> </tbody> </table>	Service category	Yes/No	Occupational Rehabilitation Services		Medical Services (excluding Specialist Services)		The following Specialist Services:		1. Neuropsychological Assessments		2. Health Advisory Services		3. Specialist Audiometry Testing	
Service category	Yes/No																
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1. Neuropsychological Assessments																	
2. Health Advisory Services																	
3. Specialist Audiometry Testing																	

Item number	Description	Clause reference	Details												
8.	Service Region	4.1(b)	<p><i>[insert the regions (i.e. each applicable State / Territory and the regions within each specified State / Territory) in which the Provider is permitted to provide Occupational Rehabilitation Services. If necessary, this will be set out in an Attachment to this Appendix A.]</i></p>												
9.	Insurance	28	<p>The Provider must have:</p> <table border="1" data-bbox="890 674 1428 1447"> <thead> <tr> <th data-bbox="890 674 1174 792">Insurance type</th> <th data-bbox="1174 674 1428 792">Additional period (if applicable)</th> </tr> </thead> <tbody> <tr> <td data-bbox="890 792 1174 969">Workers' compensation insurance, as required by Law</td> <td data-bbox="1174 792 1428 969">N/A</td> </tr> <tr> <td data-bbox="890 969 1174 1211">Cyber incident insurance for an amount not less than \$1 million per claim and \$1 million in aggregate</td> <td data-bbox="1174 969 1428 1211"><i>[Insert]</i></td> </tr> <tr> <td data-bbox="890 1211 1174 1447">Public liability insurance for an amount not less than \$10 million per claim and \$10 million in aggregate</td> <td data-bbox="1174 1211 1428 1447">N/A</td> </tr> </tbody> </table> <p>Table 1</p> <p>If the Provider is providing Occupational Rehabilitation Services, the Provider must have, in addition to the insurances specified in table 1:</p> <table border="1" data-bbox="890 1697 1428 2054"> <thead> <tr> <th data-bbox="890 1697 1174 1816">Insurance type</th> <th data-bbox="1174 1697 1428 1816">Additional period (if applicable)</th> </tr> </thead> <tbody> <tr> <td data-bbox="890 1816 1174 2054">Professional indemnity insurance for an amount not less than \$5 million per claim and \$5 million in aggregate</td> <td data-bbox="1174 1816 1428 2054">At least seven years after the expiration or termination of this Head Agreement</td> </tr> </tbody> </table>	Insurance type	Additional period (if applicable)	Workers' compensation insurance, as required by Law	N/A	Cyber incident insurance for an amount not less than \$1 million per claim and \$1 million in aggregate	<i>[Insert]</i>	Public liability insurance for an amount not less than \$10 million per claim and \$10 million in aggregate	N/A	Insurance type	Additional period (if applicable)	Professional indemnity insurance for an amount not less than \$5 million per claim and \$5 million in aggregate	At least seven years after the expiration or termination of this Head Agreement
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Professional indemnity insurance for an amount not less than \$5 million per claim and \$5 million in aggregate	At least seven years after the expiration or termination of this Head Agreement														

Item number	Description	Clause reference	Details						
			<p>Table 2</p> <p>If the Provider is providing Medical Services, the Provider must have, in addition to the insurances specified in table 1, either (1) or (2):</p> <table border="1" data-bbox="890 562 1428 1711"> <thead> <tr> <th data-bbox="890 562 1189 712">Insurance type</th> <th data-bbox="1189 562 1428 712">Additional period (if applicable)</th> </tr> </thead> <tbody> <tr> <td data-bbox="890 712 1189 1473"> <p>(1) Medical indemnity insurance for the minimum amount specified by:</p> <p>(a) the Australian Health Practitioner Regulation Agency (AHPRA) Registration Standards; or</p> <p>(b) any other relevant professional bodies that the Provider (or its Health Professionals) are a member of.</p> </td> <td data-bbox="1189 712 1428 1473"> <p>At least seven years after the expiration or termination of this Head Agreement</p> </td> </tr> <tr> <td data-bbox="890 1473 1189 1711"> <p>(2) Professional indemnity insurance for an amount not less than \$5 million per claim and \$5 million in aggregate</p> </td> <td data-bbox="1189 1473 1428 1711"> <p>At least seven years after the expiration or termination of this Head Agreement</p> </td> </tr> </tbody> </table> <p>Table 3</p>	Insurance type	Additional period (if applicable)	<p>(1) Medical indemnity insurance for the minimum amount specified by:</p> <p>(a) the Australian Health Practitioner Regulation Agency (AHPRA) Registration Standards; or</p> <p>(b) any other relevant professional bodies that the Provider (or its Health Professionals) are a member of.</p>	<p>At least seven years after the expiration or termination of this Head Agreement</p>	<p>(2) Professional indemnity insurance for an amount not less than \$5 million per claim and \$5 million in aggregate</p>	<p>At least seven years after the expiration or termination of this Head Agreement</p>
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<p>(2) Professional indemnity insurance for an amount not less than \$5 million per claim and \$5 million in aggregate</p>	<p>At least seven years after the expiration or termination of this Head Agreement</p>								

Item number	Description	Clause reference	Details												
10.	Confidential Information	30	<p>Lead Agency Confidential Information:</p> <table border="1" data-bbox="880 383 1439 629"> <thead> <tr> <th data-bbox="880 383 1182 488">Item</th> <th data-bbox="1182 383 1439 488">Period of confidentiality</th> </tr> </thead> <tbody> <tr> <td data-bbox="880 488 1182 555"></td> <td data-bbox="1182 488 1439 555"></td> </tr> <tr> <td data-bbox="880 555 1182 622"></td> <td data-bbox="1182 555 1439 622"></td> </tr> </tbody> </table> <p>Provider Confidential Information:</p> <table border="1" data-bbox="880 770 1439 1016"> <thead> <tr> <th data-bbox="880 770 1182 875">Item</th> <th data-bbox="1182 770 1439 875">Period of confidentiality</th> </tr> </thead> <tbody> <tr> <td data-bbox="880 875 1182 943"></td> <td data-bbox="1182 875 1439 943"></td> </tr> <tr> <td data-bbox="880 943 1182 1016"></td> <td data-bbox="1182 943 1439 1016"></td> </tr> </tbody> </table>	Item	Period of confidentiality					Item	Period of confidentiality				
Item	Period of confidentiality														
Item	Period of confidentiality														
11.	Address for Notices	52.1	<p>Lead Agency:</p> <p>Assistant Director – Occupational Rehabilitation and Associated Medical Services - Comcare Australia</p> <p>Physical address: Level 4/121 Marcus Clarke Street, Civic, ACT 2601</p> <p>Postal address: [insert postal address]</p> <p>Email: [insert email address]</p> <p>Provider:</p> <p>[insert name / position of person to receive Notices]</p> <p>[insert physical address]</p> <p>[insert postal address]</p> <p>[insert email address]</p>												

Schedule 1 – Glossary

A) **ACRONYMS AND ABBREVIATIONS**

Abbreviation	Description
AHPRA	Australian Health Practitioner Regulation Agency
GIC	General Interest Charge
LQMP	Legally Qualified Medical Practitioner(s)
ORAMS	Occupational Rehabilitation and Associated Medical Services
RCM	Rehabilitation Case Manager
SoR	Statement of Requirements
UOM	Universal Operations Manual
WHS	work, health and safety
WRP	Workplace Rehabilitation Provider

B) **DEFINITIONS**

Term	Definition
Additional Requirements	any requirements marked as "additional requirements" as specified in the Service Requirements.
Agency	<p>is:</p> <p>(a) a body corporate or an unincorporated body established or constituted for a public purpose by Commonwealth legislation or an instrument made under that legislation (including a local authority); and</p> <p>(b) a body established by the Governor-General or by a Minister of State or the Commonwealth, including departments.</p> <p>An Agency includes the Lead Agency, in its capacity as an employer arranging Services.</p>
Agency Data	<p>includes:</p> <p>(a) all Agency Material; and</p> <p>(b) all data and information relating to an Agency or the Lead Agency, and its operations, facilities, customers, Personnel, assets and programs (including Personal Information) in whatever form that information may exist and whether entered into, stored in, generated by or processed through software or equipment by or on behalf of the Agency or the Lead Agency.</p>
Agency Material	<p>includes:</p> <p>(a) any material given to the Provider by an Agency under a Contract or by the Lead Agency under the Head Agreement; and</p> <p>(b) any Material copied or derived from the material referred to in paragraph (a).</p>
Agency Policies and Procedures	any policies or procedures set out in a Work Order.

Term	Definition
Agency Representative	the person who is identified in a Work Order as the Agency Representative for the purposes of communication and administration, as updated from time to time.
Agency Service Manual	is a document developed, maintained and managed by an Agency, which sets out an Agency's administrative requirements and processes as guidance for Providers.
Agreed Terms	clauses 1 to 53 of the Head Agreement and the Glossary.
Approve	(a) to approve a Document in accordance with clause 14.3 of the Head Agreement. Approved and Approval have the corresponding meanings; and (b) in every other context, means the act of an Agency or Lead Agency endorsing a particular course of action related to the provision of the Services under the Head Agreement or Work Order.
Approved Remediation Plan	a Remediation Plan approved by the Lead Agency in accordance with clause 16.3(c) of the Head Agreement.
Approved Subcontractor	a Subcontractor listed at Item 4 of the Head Agreement Details or in a Work Order.
Assessment	an assessment of an Employee undertaken by the Provider in accordance with the Head Agreement or, as required by the SRC Act or any other applicable legislation or government policy.
Auditor-General	the office established under the <i>Auditor-General Act 1997</i> (Cth) and includes any other person that may, from time to time, perform the functions of that office.
Australian Accounting Standards	the standards of that name maintained by the Australian Accounting Standards Board (referred to in section 227 of the <i>Australian Securities and Investments Commission Act 2001</i> (Cth)) or other accounting standards which are generally accepted and consistently applied in Australia.
Australian Cyber Security Centre	the centre which is the Australian Government's lead on national cyber security, accessible here: https://www.asd.gov.au/cyber .
Australian Information Commissioner	the office of that name established under the <i>Australian Information Commissioner Act 2010</i> (Cth) and includes any other person that may, from time to time, perform the functions of that office.
Business Day	(a) for receiving a Notice under clause 52.2 of the Head Agreement a day that is not a Saturday, Sunday, public holiday or bank holiday in the place where the Notice is received; and (b) for all other purposes, any day that is not a Saturday or Sunday or a national public holiday in the location where the Services are being performed, and a 'national public holiday' is a Commonwealth public service holiday throughout Australia promulgated in the Commonwealth of Australia Gazette.
Business Hours	from 8.00am to 6.00pm (in the place where the Notice is received or the Services are delivered) on a Business Day.

Term	Definition
Change in Control	<p>in relation to a body corporate, where the power (whether formal or informal, whether or not having legal or equitable force, whether or not based on legal or equitable rights and whether direct or indirect, including through one or more entities):</p> <p>(a) to control more than half of the voting power of the body;</p> <p>(b) to control the composition of the board of directors of the body; or</p> <p>(c) to control more than half of the issued share capital of the body, excluding any part of it which carries no right to participate beyond a specified amount in the distribution of either profit or capital,</p> <p>resides with persons other than those holding that power on the Commencement Date.</p>
Claim	any claim, demand, debt, allegation, liability or proceeding of any nature whether present or future, fixed or unascertained, actual or contingent.
Comcare	the body corporate established by section 68 of the SRC Act.
Commencement Date	the date on which the Head Agreement commences, as specified in Item 1 of the Head Agreement Details.
Commissioner of the National Anti-Corruption Commission	the office established under section 16 of the <i>National Anti-Corruption Commission Act 2022</i> (Cth) and includes any other person that may, from time to time, perform the functions of that office.
Complex Assessment	an assessment requiring more than one Workplace Rehabilitation Provider or Legally Qualified Medical Practitioner to complete the assessment.
Confidential Information	<p>information that:</p> <p>(a) is by its nature confidential;</p> <p>(b) is designated by a party as confidential and is described in Item 10 of the Head Agreement Details;</p> <p>(c) a party knows or ought to know is confidential; or</p> <p>(d) is personal information (including sensitive information) under the Privacy Act,</p> <p>but does not include information that:</p> <p>(e) is or becomes public knowledge otherwise than by breach of the Head Agreement, the Privacy Act or any other confidentiality obligation; or</p> <p>(f) is in the possession of the receiving party without restriction in relation to disclosure before the date of receipt; or</p> <p>(g) has been independently developed or acquired by the Provider without breach of any obligation of confidence.</p>
Conflict	any conflict of interest, any risk of conflict of interest and any apparent conflict of interest arising through the Provider (or its Personnel or Subcontractors) engaging in any activity or obtaining any interest that is likely to conflict with or restrict the Provider in performing the Services fairly and independently.
Consultation	the process of sharing relevant information, proposed activities, questions or views, (with consent where needed), with Stakeholders to seek views that may be considered when making decisions.

Term	Definition
Contract	for the purposes of this Head Agreement, a legal agreement formed when an Agency issues a signed Work Order in accordance with clause 8.1 of the Head Agreement for the provision of Services.
Contract Commencement Date	the date on which a Contract commences, as specified in a Work Order.
Contract Management Documentation	the list of Documentation required to be developed and maintained by the Provider as set out in Attachment B to the Statement of Requirements.
Contract Term	the Initial Contract Term plus any extension in accordance with clause 8.4 of the Head Agreement and the relevant Work Order.
Corporations Act	the <i>Corporations Act 2001</i> (Cth).
Created Data	any Agency Data that the Provider creates, modifies or adapts in the course of providing the Services.
Criminal Code	the Schedule to the <i>Criminal Code Act 1995</i> (Cth).
Criminal or Court Record	any record of any Other Offence.
Cyber Incident	a single or series of unwanted or unexpected cyber security events that have a significant probability of compromising business operations and threatening information security and; is likely to result, or has resulted in the release of confidential or protected information into the public domain (including criminal websites). This includes denying, disrupting or theft of information on ICT systems and the confidentiality, integrity or availability of a system or the information stored, processed or communicated by it may be affected.
Cyber Security	technologies, processes, procedures and controls that are designed to protect ICT systems from Cyber Incidents.
Damages	all liabilities, losses, damages, costs and expenses (including legal costs on a full indemnity basis), whether incurred or awarded against a party, and disbursements and costs of investigation, litigation, settlement, judgment, interest, fines and penalties, regardless of the Claim under which they arise.
Data Security and Protection Plan	the plan of that name described in Attachment B (Contract Management Documentation) to the Statement of Requirements that meets Information Privacy Principles.
Developed Material	information reduced to a material form (whether stored electronically or otherwise) that is provided or required to be given by the Provider to the Agency under or in connection with the Head Agreement or a Contract.
Director of Workplace Gender Equality	the person who holds the position of Director of the Workplace Gender Equality Agency (or any equivalent position) at the time.

Term	Definition
Documentation	each document: (a) required to be developed or supplied by the Provider as part of delivering the Services and as described in a Work Order or Head Agreement; and (b) that is otherwise agreed in writing between the parties to be Documentation for the purposes of the Head Agreement or a Contract.
Eligible Data Breach	has the meaning given to this term in the Privacy Act or other applicable State, Territory or Commonwealth legislation.
Employee	any current, prospective or former employee of an Agency.
Employer	any Agency that has employed or employs an Employee including where the employee is on any form of leave.
Excluded Service	any identified elements or activities that are not included as part of the Service.
Extension Period	has the meaning given in clause 3.2 of the Head Agreement and as specified in Item 3 of the Head Agreement Details.
Fee	the fees and charges (including any travel and accommodation costs) payable by the Agency (or Comcare for compensation services under the SRC Act), to the Provider for the provision of the Services as specified in the relevant Contract. The Fees will be formulated in accordance with clause 7.3 of the Head Agreement and the maximum hourly rates or charge for a Service in Schedule 4 (Fee Methodology) of the Head Agreement.
General Interest Charge (GIC) Rate	the interest charge determined under section 8AAD of the <i>Taxation Administration Act 1953</i> (Cth) on the day that payment is due. Details of the General Interest Charge rate are available from the Australian Taxation Office website.
Glossary	this separate document which is Schedule 1 to the Head Agreement.
Head Agreement	the agreement of standing offer for the provision of occupational rehabilitation and associated medical services executed by the Lead Agency and the Provider, including all Schedules and any attachments.
Head Agreement Details	Appendix A to the Head Agreement.
Head Agreement Period	the Initial Head Agreement Period plus any extension in accordance with clause 3.2 of the Head Agreement.
Health Professional(s)	an individual engaged by the Provider to perform Services who is: (a) a Legally Qualified Medical Practitioner(s); or (b) any other suitably qualified allied health services provider(s).
Indigenous enterprise	an organisation that is 50 per cent or more Indigenous owned that is operating a business.
Indigenous Participation Plan	a plan detailing how the Provider will meet the minimum mandatory requirements for the Indigenous Procurement Policy and which is Approved by the relevant Agency.

Term	Definition
Indigenous Procurement Policy	the policy of that name, as amended from time to time, available on https://www.niaa.gov.au/indigenous-affairs/economic-development/indigenous-procurement-policy-ipp .
Initial Contract Term	the period defined as the "Initial Contract Term" in a Work Order.
Initial Head Agreement Period	the period of time for which the Head Agreement is intended to continue, as specified in Item 2 of the Head Agreement Details.
Injury	an injury, illness, condition, disease or an aggravation of a physical or mental injury suffered by an Employee.
Injury Management	a coordinated approach to managing the symptoms and impacts of an Injury or illness.
Insolvency Event	<p>in respect of the Provider:</p> <ul style="list-style-type: none"> (a) the Provider or any party having or exercising control over the Provider becomes an externally-administered body corporate for the purposes of the Corporations Act or an external insolvency administrator is appointed to any such party under the provisions of any companies or securities legislation of another jurisdiction; (b) a controller (as that term is defined in the Corporations Act) or mortgagee in possession is appointed to the assets of the Provider or any party having or exercising control over the Provider, or such appointment is reasonably likely; (c) the Provider or any party having or exercising control over the Provider, fails to comply with a statutory demand in the manner specified in section 459F of the Corporations Act, and has not made an application to set aside such demand under section 459G of the Corporations Act; (d) if the Provider is an unincorporated entity or trust: <ul style="list-style-type: none"> (i) an event of the kind referred to in paragraphs (a), (b) or (c) occurs in respect of any of the partners, joint venturers or proprietors of such entity; or (ii) a trustee in bankruptcy (or comparable person) is appointed to the assets and affairs of any of the partners, joint venturers or proprietors of such entity, or any of those partners, joint venturers or proprietors enter into an arrangement or composition with its or their creditors for the payment of their debts; or (e) the Provider is unable to pay its debts as and when they fall due.

Term	Definition
Intellectual Property Rights	<p>all intellectual property rights, including the following rights:</p> <p>(a) rights in relation to patents, copyright (including Moral Rights), circuit layout rights, trade marks (including goodwill in those marks), business names and any right to have confidential information (including trade secrets and know-how) kept confidential and any other rights resulting from intellectual activity in the industrial, scientific, literary and artistic fields recognised in domestic law anywhere in the world;</p> <p>(b) any application or right to apply for registration of any of the rights referred to in paragraph (a); and</p> <p>(c) all rights of a similar nature to any of the rights in paragraphs (a) and (b) which may subsist in Australia or elsewhere,</p> <p>whether or not such rights are registered or capable of being registered.</p>
Item	an item in a Schedule to the Head Agreement or a Work Order.
Key Provider Personnel	<p>the Provider's Personnel responsible for delivering the Services who are specified as "Key Provider Personnel" in a Work Order, or any replacement for those Personnel approved by the Agency in accordance with clause 13.4 of the Head Agreement. Key Provider Person has the corresponding meaning. To avoid doubt, the Provider Relationship Manager and the Provider Representative are Key Provider Personnel.</p>
Key Requirements	the essential elements of any Services identified and described in the Service Requirements.
Law	any applicable statute, regulation, by-law, ordinance or subordinate legislation in force from time to time in Australia, whether made by a State, Territory, the Commonwealth or a local government, and includes the common law as applicable from time to time.
Lead Agency	is, as at the Commencement Date, Comcare, but may be amended at any time during the Head Agreement Term, at the direction of the Australian Government.
Lead Agency Policies and Procedures	the Lead Agency's policies and procedures as notified to the Provider from time to time by the Lead Agency, including the Universal Operations Manual and any other policies and procedures specified in the Head Agreement.
Legally Qualified Medical Practitioner(s) or (LQMP)	<p>any individual qualified to practice medicine in Australia who:</p> <p>(a) has all the certifications and registrations required by the Australian Health Practitioner Regulation Agency; and</p> <p>(b) is engaged by the Provider to provide a medical assessment or opinion as part of the Services.</p>
Legal Services Directions	the Commonwealth Attorney General's Legal Services Directions issued under section 55ZF of the <i>Judiciary Act 1903</i> (Cth), as amended or replaced from time to time.
Loss	all liabilities, losses, damages, costs and expenses (including legal costs on a full indemnity basis) incurred or suffered by a party.
Medical Services	the services identified in Part 3 and Part 4 of the Service Requirements.
Medical Service Provider	any person or organisation engaged to provide Medical Services as part of the Panel.

Term	Definition
Moral Rights	the right of integrity of authorship (that is, not to have a work subjected to derogatory treatment), the right of attribution of authorship of a work, and the right not to have authorship of a work falsely attributed, as defined in the <i>Copyright Act 1968</i> (Cth).
Notice	a notice given in accordance with clause 52. The terms " Notify " and " Notification " have corresponding meanings.
Occupational Rehabilitation Services	the services identified in Part 2 of the Service Requirements.
Official Information	has the meaning given in the Protective Security Policy Framework, as amended or replaced from time to time, and available at https://www.protectivesecurity.gov.au/sites/default/files/2019-11/pspf-infosec-08-sensitive-classified-information.pdf .
Offsite	a location other than an Employee's regular place of work or, where an Employee does not have a regular place of work, the location of any Assessment.
Ombudsman	the office established under the <i>Ombudsman Act 1976</i> (Cth) and includes any other person that may, from time to time, perform the functions of that office.
Operating Model	the document of that name described in Attachment B (Contract Management Documentation) to the Statement of Requirements.
ORAMS Portal	the online digital portal made available by the Lead Agency for use by the Provider in performing the Services and the Agencies in managing the delivery of the Services, as maintained and updated by the Lead Agency from time to time.
Other Offence	<p>in relation to a person, a conviction, finding of guilt, on-the-spot fine for, or court order relating to:</p> <ul style="list-style-type: none"> (a) an apprehended violence or protection order made against the person; (b) the consumption, dealing in, possession or handling of alcohol, a prohibited drug, narcotic or other prohibited substance; (c) violence against another person or the injury, but excluding the death, of another person; or (d) an attempt to commit a crime or offence, or to engage in any conduct or activity, described in paragraphs (a) to (c).
Panel	the panel for the provision of occupational rehabilitation and associated medical services.
Panel Manager	the person(s) identified in Item 5 of the Head Agreement Details.
Panel Member	a supplier who has been selected to provide Services in accordance with the Head Agreement.
Personal Information	has the same meaning as in section 6 of the Privacy Act.

Term	Definition
Personnel	in relation to a party, any natural person who is an officer, employee, contractor, agent or representative of that party (except that the Lead Agency's and Agency's Personnel excludes the Provider, Provider's Personnel and Key Provider Personnel). Personnel includes, in relation to the Provider, Personnel of Subcontractors and Service Providers.
Personnel and Training Plan	the plan of that name described in Attachment B (Contract Management Documentation) to the Statement of Requirements.
Police Check	a formal inquiry made to the relevant police authority in each State or Territory and designed to obtain details of an individual's criminal conviction or a finding of guilt in all places (within and outside Australia) that the Provider knows the person has resided in.
Pre-existing Material	Material, other than Third Party Material, that: <ul style="list-style-type: none"> (a) is in existence at the Commencement Date or is subsequently brought into existence other than as a result of the performance of the Head Agreement; and (b) is embodied in, or attaches to, the Services or is otherwise necessarily related to the functioning or operation of the Services.
Privacy Act	the <i>Privacy Act 1988</i> (Cth).
Privacy Commissioner	the office established under the Privacy Act and includes any other person that may, from time to time, perform the functions of that office.
Protective Security Policy Framework	the Australian Government's protective security requirements for the protection of its people, information and assets, as amended or replaced from time to time, and can be accessed at: http://www.protectivesecurity.gov.au/Pages/default.aspx .
Provider	the entity that has entered into a Head Agreement with the Lead Agency and includes its Personnel, as the context requires.
Provider Relationship Manager	the person identified in Item 6 of the Head Agreement Details.
Provider Representative	the person identified in a Work Order as the Provider Representative, as updated from time to time.
Quality Management Plan	the plan of that name described in Attachment B (Contract Management Documentation) to the Statement of Requirements.
Rehabilitation Case Manager (RCM)	a person who, on behalf of the Employer, coordinates and manages the process of rehabilitation and return to work for an Employee who has suffered an Injury.
Related Body Corporate	a 'related body corporate' within the meaning given to that term in section 50 of the Corporations Act. Related Companies has a corresponding meaning.
Remediation Plan	the plan prepared by the Provider in accordance with clause 16.3 of the Head Agreement.

Term	Definition
Remote Area	the areas identified in the map on the Indigenous Procurement Website, https://www.niaa.gov.au/indigenous-affairs/economic-development/indigenous-procurement-policy-ipp .
Risk Management Plan	the plan of that name described in Attachment B (Contract Management Documentation) to the Statement of Requirements.
Satisfactory Statement of Tax Record	meets the conditions set out in Part 6.b of the Shadow Economy Procurement Connected Policy or, if the circumstances in Part 6.c of the Shadow Economy Procurement Connected Policy apply, the conditions set out in Part 8.b of the Shadow Economy Procurement Connected Policy.
Schedule	a schedule to the Head Agreement.
Serious Offence	<ul style="list-style-type: none"> (a) a crime or offence involving the death of a person; (b) a sex-related offence or a crime, including sexual assault (whether against an adult or child); child pornography, or an indecent act involving a child; (c) fraud, money laundering, insider dealing or any other financial offence or crime, including those under legislation relating to companies, banking, insurance or other financial services; or (d) an attempt to commit a crime or offence described in (a) to (c).
Serious Record	a conviction or any finding of guilt regarding a Serious Offence.
Service	an individual service identified in the Service Requirements.
Service Issues and Complaints Register	the register of that name described in Attachment B (Contract Management Documentation) to the Statement of Requirements.
Service Provider	any Health Professional individually contracted to the Provider in relation to the provision of Services.
Service Region	the geographical area that the Provider is permitted to provide Occupational Rehabilitation Services, as specified in Item 8 of the Head Agreement Details.
Service Requirements	Attachment A to Schedule 2 of the Head Agreement and its attachments, which set out the requirements for the Services.
Service Standard	the standards of service which the Provider must achieve in providing the Services to an Agency, as specified in the Service Requirements.
Services	<ul style="list-style-type: none"> (a) for the purposes of the Head Agreement, the services set out in the Statement of Requirements; and (b) for the purposes of a Contract, the services to be provided by the Provider under that Contract, as specified in the relevant Work Order.
Shadow Economy Procurement Connected Policy	the Shadow Economy Procurement Connected Policy of the Commonwealth, as amended from time to time (available at https://treasury.gov.au/publication/p2019-t369466).
Site	one or more physical locations used by the Provider, its Subcontractors and/or Service Providers to provide the Services.

Term	Definition
Specialist Services	the services identified in Part 4 of the Service Requirements and which form part of the Medical Services.
Specified Acts	has the meaning given to this term in clause 21.2 of the Head Agreement.
SRC Act	<i>Safety, Rehabilitation and Compensation Act 1988</i> (Cth).
Stakeholders	a party that has an interest in an activity or the Services and include Agencies, Employees and Providers.
Statement of Requirements	Schedule 2 of the Head Agreement and its attachments, which set out the requirements for performance of the Services.
Statement of Tax Record	a statement of tax record issued by the Australian Taxation Office following an application made in accordance with the process set out at https://www.ato.gov.au/Business/Bus/Statement-of-tax-record/?page=1#Requesting_an_STR .
Step-in Event	means: <ul style="list-style-type: none"> (a) any failure by the Provider to observe or perform a provision of a Contract which failure, in the reasonable opinion of the Agency: <ul style="list-style-type: none"> (i) has, or is likely to have, a materially adverse effect on the quality, continuity of performance or delivery of the Services; or (ii) has, or is likely to have, a materially adverse effect on the Agency's reputation; (b) a repudiation of all or any part of a Contract by the Provider; (c) a failure by the Provider to observe or perform a provision of a Contract which failure gives the Agency a right to terminate the Contract; or (d) an Insolvency Event occurs in relation to the Provider.
Step-in Rights	the Agency's rights, in accordance with clause 17 of the Head Agreement, to step-in and take control of the provision of all or any part of the Services.
Subcontractor	a subcontractor to the Provider who provides products or services to the Provider in relation to the Services (including an Approved Subcontractor), but does not include Service Providers.
Third Party Material	Material owned by another person that is: <ul style="list-style-type: none"> (a) included, embodied in or attached to the Contract Material; or (b) used in undertaking the Services.
Transition-out	the transition of the Services from the Provider to the Lead Agency or its nominee.
Transition-out Period	is the period described in clause 50.1 of the Head Agreement.
Transition-out Plan	the plan prepared by the Provider in accordance with the Statement of Requirements and Approved by the Lead Agency, which sets out the obligations to be performed by each party for the orderly transition of the Services from the Provider to the Lead Agency or its nominee.

Term	Definition
Transition-out Services	the services to be provided by the Provider, in the event of expiry or termination of the Head Agreement, in accordance with clause 50 of the Head Agreement.
Treating Doctor	the Legally Qualified Medical Practitioner(s) who provide or supervise an Employee's treatment.
Treating Health Professional	the Legally Qualified Medical Practitioner(s) and Health Professionals who provide or supervise an Employee's treatment.
Universal Operations Manual	a document which summarises the Head Agreement into a "user guide" to provide the Lead Agency, Provider or Agency with a single source of information. This manual is developed and maintained by the Lead Agency.
Valid	valid in accordance with the Shadow Economy Procurement Connected Policy.
Warranted Materials	(a) the Provider's Pre-existing Material included, embodied in or attached to the Contract Material, or used in undertaking the Services; (b) Third Party Material; and (c) Contract Material.
WHS Act	the <i>Work Health and Safety Act 2011</i> (Cth) and any corresponding WHS Law as defined in that Act.
WHS Laws	the WHS Act and regulations made under the WHS Act.
Work Order	a written order for Services issued in accordance with clause 7.4 of the Head Agreement and is substantially in the form provided by the Lead Agency.
Workplace	place or places where an Employee ordinarily performs their work regardless of whether that place is Offsite or Onsite.
Workplace Gender Equality Agency	the Workplace Gender Equality Agency established under part 3 of the <i>Workplace Gender Equality Act 2012</i> (Cth).
Workplace Rehabilitation	a managed plan or process to maintain Employees in, or return them to, suitable employment.
Workplace Rehabilitation Provider	a person or organisation providing rehabilitation services, who is approved by Comcare under sections 34F or 34H of the SRC Act (or any equivalent amended provisions), to assist Employees with an Injury to recover, remain at, or return to work.
WRP Portal	the online digital portal, made available by Comcare for use by the WRPs, as maintained and updated by the Comcare from time to time.

Schedule 2 – Statement of Requirements

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Attachment A - Service Requirements - ORAMS

Attachment B - Contract Management Documentation

1. Introduction

1.1 Overview

- (a) This Statement of Requirements (**SoR**) sets out Comcare's requirements for the provision of the new and improved Occupational Rehabilitation and Associated Medical Services (**ORAMS**) and includes the following Attachments:
 - (i) Attachment A - Service Requirements - ORAMS; and
 - (ii) Attachment B - Contract Management Documentation.

1.2 Purpose

- (a) The ORAMS panel is a collaborative procurement arrangement with the purpose of supporting participating Agencies to access effective and efficient medical and rehabilitation services for current, prospective, and former Commonwealth Employees.
- (b) ORAMS aligns to Comcare's priorities by preventing harm, supporting recovery at, and return to work. ORAMS arrangements support participating Agencies to:
 - (i) drive better health and recovery outcomes for Employees;
 - (ii) have faster access to quality Providers; and
 - (iii) build partnerships and ensure value for money for the Commonwealth.

1.3 Background

- (a) The current panel for ORAMS was established by the Australian Taxation Office (**ATO**) in 2016.
- (b) Comcare replaced the ATO as the Lead Agency of the current panel in March 2021. Comcare will continue to act as Lead Agency under the new Panel.
- (c) The current panel for ORAMS is open to all Agencies. There are 41 Agencies that currently procure ORAMS from a panel of 21 current providers, of which 17 are Workplace Rehabilitation Providers and the remaining 4 are Medical Service Providers.

1.4 Definitions

All capitalised terms referenced in this SoR have the meaning set out in the Glossary (Schedule 1 to the Head Agreement), unless otherwise specified.

2. ORAMS Panel

2.1 Principles and objectives for the ORAMS Panel

The principles and objectives of ORAMS are as follows:

- (a) drive better outcomes for Employees, Agencies, and the Commonwealth;

- (b) provide Services that align with Comcare's strategic priorities as published on Comcare's website, which may be updated from time to time;
- (c) ensure that ORAMS meet all applicable legal requirements, including Commonwealth privacy and data security obligations;
- (d) achieve value for money for the Commonwealth;
- (e) support Agencies to make informed choices (including considering value for money) when engaging Providers;
- (f) minimise the administrative burden and provide greater clarity and efficiency for all Stakeholders; and
- (g) provide Services that are responsive to emerging issues and trends.

3. Overview of Provider Services

3.1 General Service Standards

General Service standards, set out in section 4.1, are the universal service and conduct standards expected of Providers when engaging with all Stakeholders in respect of the provision of ORAMS.

3.2 Provision of Services

From the Commencement Date, the Provider must:

- (a) **ORAMS:**
 - (i) provide the Services and perform all obligations and requirements set out in the Head Agreement and any Work Order, including in the Statement of Requirements and **Attachment A – Service Requirements;**
- (b) **Management Services:**
 - (i) provide the governance management services as set out in the Head Agreement and any Work Order.

4. Detailed Provider Service Requirements

4.1 General Service Standards

- (a) Without limitation, when performing the Services, the Provider must:
 - (i) deliver the Services in line with the 'description of service,' 'key requirements,' 'performance expectations,' and any 'additional requirements' specified within the **Attachment A – Service Requirements;**
 - (ii) provide the Services in a way that contributes to the achievement of the objectives set out in section 2.1;

- (iii) provide timely and clear communications to the Lead Agency, Agencies and Employees;
- (iv) maintain accurate records of any interactions or communications with the Lead Agency, Agencies and Employees;
- (v) be proactive in engaging with the Lead Agency, Agencies and Employees (including identifying performance issues and providing information on performance or service trends);
- (vi) prevent fraudulent activity and must take reasonable steps to prevent fraud, as required in clause 43 of the Head Agreement; and
- (vii) perform Services in accordance with the Approved Documentation.

4.2 Management Services

(a) Contract Management Documentation

- (i) The Provider must prepare, deliver and update the Documentation, as set out in **Attachment B - Contract Management Documentation**.
- (ii) The Provider must:
 - A. maintain the Documentation set out in Attachment B - Contract Management Documentation; and
 - B. provide the Documentation to the Lead Agency promptly on the Lead Agency's written request.

(b) Training:

- (i) The Lead Agency will provide an orientation training session to the Key Provider Personnel on how to use the ORAMS Portal.
- (ii) The Provider must ensure that the Key Provider Personnel or a representative completes the training provided by the Lead Agency.
- (iii) The Provider must cover any costs of training for its Personnel.
- (iv) The Provider must ensure its Personnel complete any other training notified by the Lead Agency or an Agency.

(c) Management of complaints and service issues:

- (i) In response to all complaints or service issues raised the Provider must:
 - A. meet its obligations in relation to complaint handling as set out in the Head Agreement; and
 - B. update and deliver the Service Issues and Complaints Register, as required in **Attachment B - Contract Management Documentation**.

(d) **Provider to encourage efficient use of the Services.**

- (i) The Provider is encouraged to share with an Agency information to assist the Agency to:
 - A. better utilise the Services; and
 - B. identify any patterns, trends or causes of injuries in Commonwealth Workplaces.
- (ii) During the Head Agreement Period, the Provider must identify opportunities to improve the existing Services offered under the Head Agreement.
- (iii) The Provider must provide any information to the Lead Agency in relation to the Services in accordance with any written Notice received from the Lead Agency within the timeframe specified in the Notice.

4.3 Agency Services

(a) Agency Instructions:

- (i) the Provider must comply with any obligations set out in:
 - A. the Universal Operations Manual; and
 - B. any relevant Agency Service Manuals, as updated from time to time.

(b) Meetings:

- (i) The Provider must attend any meetings specified in a Work Order or as requested in writing by an Agency.
- (ii) The Provider may request to meet with an Agency regarding the provision of Services, but must not use these meetings to promote its products/services.

4.4 Transition-out Services

(a) The Provider must:

- (i) prepare, deliver and update the Transition-out Plan, as set out in **Attachment B - Contract Management Documentation**; and
- (ii) provide Transition-out Services in accordance with clause 50 of the Head Agreement and the Approved Transition-out Plan.

(b) The objective of the Transition-out Services is to ensure continuation of services for Agencies and finalisation of any payments to the Provider.

5. Provider requirements

5.1 Overview

- (a) This section outlines requirements relevant to all Providers or requirements unique to Provider subgroups such as Workplace Rehabilitation Providers or Medical Service Providers.
- (b) This section also details requirements that relate to Treating Health Professional(s) who are engaged to conduct Services.
- (c) The Provider must comply with the standards for a service provider as provided on the Lead Agency's website [standards of a service provider](#), which may be updated from time to time, as relevant to the Services.

5.2 Provider to maintain records of Health Professionals

- (a) The Provider must maintain up-to-date records of all of the Provider's Health Professionals who are employed or engaged by the Provider to deliver ORAMS. The Provider's records must include the following information:
 - (i) details of relevant qualifications specific to clinical disciplines;
 - (ii) information on any subspeciality areas;
 - (iii) insurance details where these have not been collected when registering on the WRP Portal;
 - (iv) the Health Professional's membership status with regulatory bodies such as the Australian Health Practitioner Regulation Agency (AHPRA) or for WRPs, any other relevant professional bodies; and
 - (v) any other relevant information about the suitably qualified Health Professional.

5.3 Suitability of Provider's Health Professionals

- (a) The Provider must:
 - (i) prior to deploying a Health Professional to deliver Services to an Agency, ensure that the Provider has undertaken due diligence in relation to any Health Professional(s) it employs or engages, including ensuring that the Health Professional has not had any suspensions, limitations, conditions, supervision requirements, undertakings, reprimands, or restrictions placed on their practicing license or eligibility to practise; and
 - (ii) if a Health Professional is suspended or any limitation, condition, supervision requirements, undertakings, reprimands or restrictions placed on their practicing license or eligibility to practise, immediately Notify both the Lead Agency and any Agency receiving Services from that Provider's Health Professional; and

- (iii) promptly Notify the Lead Agency and any Agency receiving Services from the Provider's Health Professional, if the Provider becomes aware that a Health Professional is, or has become, subject to any investigation, inquiry, regulatory or complaint process or has failed to comply with any record keeping requirements in section 5.2(a).
- (b) The Provider must:
 - (i) conduct due diligence of its Health Professionals at regular intervals (at a minimum, on an annual basis);
 - (ii) suspend and reinstate Health Professionals from delivering Services depending on the status of the Health Professionals' practicing license or eligibility to practise; and
 - (iii) advise the Lead Agency and any Agency with whom the Provider has a Contract of any suspension or re-instatement of a Health Professional.
- (c) The Provider must:
 - (i) remove a Health Professional from providing the Services as soon as practicable, if the Health Professional has been suspended or terminated by the AHPRA;
 - (ii) on receiving a written request from the Lead Agency, remove a Health Professional from providing the Services, if the Health Professional is the subject of investigation by AHPRA or other law enforcement or regulatory agency, until such time as the investigation or inquiry is completed; and
 - (iii) take any action requested by the Lead Agency in writing in relation to a Health Professional, if the Health Professional has conditions imposed by AHPRA or other law enforcement or regulatory agency due to complaints or concerns about the conduct of the Health Professional.
- (d) The Provider must ensure that the Health Professional(s) available to Agencies for the provision of Services:
 - (i) undertake any relevant training related to maintaining their registration and satisfy their relevant professional development requirements;
 - (ii) demonstrate a high level of verbal and written skills with the ability to communicate effectively with other Health Professionals, the Employee, Agency Personnel and other appropriate colleagues;
 - (iii) demonstrate a high level of knowledge, skills, and experience in service delivery, particularly in working with Employees and compensation schemes;
 - (iv) maintain awareness of current clinical practice guidelines and research relevant to their field of practice; and

- (v) demonstrate a high ethical standard including compliance with the AMA Ethical Guidelines on Independent Medical Assessments (accessible here: <https://www.ama.com.au/position-statement/ethical-guidelines-independent-medical-assessments-2010-revised-2015> or similar advice from their professional body.
- (e) An Agency may Notify the Provider that it must not use a particular Health Professional(s) in the provision of Services to the Agency based on reports of their ethical conduct.
- (f) On written request from the Lead Agency, the Provider must provide to the Lead Agency any records relating to the Health Professionals providing the Services.

5.4 Occupational Rehabilitation Services

- (a) This section 5.4 applies if the Provider is providing Occupational Rehabilitation Services.
- (b) The Provider must:
 - (i) be a Workplace Rehabilitation Provider (**WRP**);
 - (ii) only provide Occupational Rehabilitation Services in the Service Regions;
 - (i) be able to deliver the services virtually and in-person (as set out in the 'Service Requirements'); and
 - (ii) hold and maintain approval as a WRP by complying with the approval obligations, accessible on the Lead Agency's relevant web page: "[Comcare-approved WRP](#)", which includes the following:
 - A. the minimum operational standards that WRPs need to comply with throughout the approval period;
 - B. the conditions for ongoing approval; and
 - C. any service delivery and performance requirements specified in the Lead Agency's WRP performance monitoring framework.
- (b) The Provider must consent to the Lead Agency having access to all relevant WRP portal data relating to monitoring compliance and performance.

5.5 Medical Services

- (a) This section 5.5 applies if the Provider is providing Medical Services.
- (b) The Provider must:
 - (i) be able to deliver the services virtually and in-person (as set out in the 'Service Requirements');

- (ii) ensure that any LQMPs (including any LQMP contracted as a Service Provider) have the necessary qualifications and maintain certification and registration with AHPRA or other relevant professional bodies;
 - (iii) comply with any guidance provided by the Lead Agency; and
 - (iv) ensure that any LQMPs used to deliver Services are doing so in a way that is consistent with the Clinical Framework: [Clinical Framework - For the Delivery of Health Services](#).
- (c) If the Provider is providing any of the Specialist Services, the Provider acknowledges and agrees that the Specialist Services form part of the Medical Services and the obligations in this section 5.5 apply to the Specialist Services.

6. ORAMS Portal

6.1 Requirements of Providers in relation to the ORAMS Portal

- (a) The Provider must use the ORAMS Portal, in accordance with clause 11 of the Head Agreement.
- (b) If the Portal is utilised to facilitate the provision of a Service, the Provider (or relevant Health Professional) must enter all relevant data and complete other requirements in accordance with the Head Agreement and any relevant operating procedures provided by the Lead Agency.
- (c) The Provider must capture and provide data and reporting to the Lead Agency, on the Lead Agency's request, for all referrals, including reporting data on which referrals were completed through the use of the ORAMS Portal and which referrals were made off the ORAMS Portal (i.e. in writing).
- (d) The Provider must establish and maintain access to the ORAMS Portal in accordance with any instructions of the Lead Agency, including by:
 - (i) ensuring that the secure, personalised log in access provided to the Provider Relationship Manager and other relevant Provider's Personnel is only used by those persons who hold such access;
 - (ii) responding to and managing requests for Services or referrals generated on the ORAMS Portal by Agencies; and
 - (iii) ensuring that the Provider's information is up to date in the ORAMS Portal, including:
 - A. updating Fees (to the extent that the Fees do not exceed the Provider's Fees, as set out in Schedule 4 (Fee Methodology) of the Head Agreement);
 - B. contact details for responding to requests for Services (i.e. referrals); and

- C. indicating the Provider's availability.

7. Provider Meetings

7.1 Meetings with Lead Agency

- (a) The Provider must ensure that the Provider Relationship Manager attends the following meetings and forums:
 - (i) quarterly Provider forums; and
 - (ii) ad hoc meetings with the Lead Agency, as required by the Lead Agency.
- (b) The Provider must ensure that the Provider Representative attends the above meetings or any other meetings requested by the Lead Agency.
- (c) Forums and meetings must not be used by Providers to promote new services to the Lead Agency or other Agencies.
- (d) The Provider must progress any agreed action/s from a meeting within the required timeframe/s.
- (e) The Provider must prepare for and participate in any meeting in accordance with the requirements in the Universal Operations Manual.
- (f) If the Provider Relationship Manager and/or Provider Representative is not able to attend a meeting, the Provider must use all reasonable endeavours to ensure that a delegate of appropriate seniority is in attendance.

7.2 Meetings with other Agencies

- (a) The Provider must ensure that the Provider Relationship Manager, or suitable alternative Provider Representative attends any ad hoc meetings requested by any Agency.
- (b) The nature and timing of these meetings, and any associated Documentation, are to be notified by the Agency, in consultation with the Provider.

8. Services requirements, performance and compliance

8.1 Service Requirements

- (a) The Provider must comply with the Service Requirements for the ORAMS as set out in **Attachment A - Service Requirements - ORAMS.**

Attachment A to the Statement of Requirements

Service Requirements – ORAMS

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Part 1 - Introduction and overview

1. Purpose

This document describes the Service Requirements to be delivered by Providers in accordance with the Head Agreement.

2. Interpretation

In these Service Requirements, except where the contrary intention is expressed, the definitions set out in the Glossary apply.

3. Universal Service Requirements for ORAMS

(a) Delivery method:

- a. This is a description of how a service may be performed, including:
 - i. an in-person assessment where an Employee needs to be in the same room as the Provider to be examined;
 - ii. a virtual assessment where the Provider or the Employee being assessed are not in the same room together and instead meet via telephone, video link or a computer-based interface; or
 - iii. a combination of in-person and virtual assessment.
- b. There may be some assessments, or parts of assessments, that can only be completed as an in-person assessment.
- c. In cases where an Employee requests an interpreter and interpreting services are provided virtually or by phone, so long as the Provider and Employee being assessed are in-person, the requirements of an in-person assessment are met.

(b) Choice of Provider:

When generating a referral, an Agency's Rehabilitation Case Manager (**RCM**) will search the Panel for a Provider who can deliver the required Services. The RCM may ask a Provider to issue advice on the selection of the most appropriately qualified Workplace Rehabilitation Provider (**WRP**) or Legally Qualified Medical Practitioner (**LQMP**) for the required Service. The RCM may request alternative options in relation to the required qualifications of the WRP / LQMP.

(c) Satisfactory report:

Under a Contract, the Agency will determine if the Provider's report meets the requirements of a 'satisfactory report' based on the detail below.

A 'satisfactory report' must meet all requirements across the 3 areas of preparation, consultation, and review.

(d) Preparation

The report must:

- i. address all the Key Requirements and any Additional Requirements of a Service;
- ii. meet all applicable Service Standard(s) for that Service;
- iii. be comprehensive, clear, complete and quality checked by the Provider;
- iv. meets all requirements for Employee privacy and consent;
- v. be accurate and represent the facts with recommendations that are practical and able to be implemented by an Agency; and
- vi. contain recommendations which consider all relevant medical information and are based on the WRP's or LQMP's professional opinion, and may include detail of possible clinical implications of not following the recommendations.

(e) Consultation

Where required, the report must:

- i. have been developed in Consultation with all relevant Stakeholders; and
- ii. considered feedback from Stakeholders including an Employee, their manager, and the Agency's representative.

(f) Review

- i. Where an Agency has identified errors within the Provider's report, or believes the quality of a report does not meet the standard of a satisfactory report, a Provider must, at no charge to the Agency correct or amend its report within:
 1. 2 Business Days, if the report concerns Occupational Rehabilitation Services; and
 2. 5 Business Days, if the report concerns Medical Services.
- ii. This process may be repeated until the Agency is satisfied the report is of satisfactory quality.

4. Service Standards:

Service Standards are compulsory components of the performance expectation defined under each service description. The Service Standards include the use of approved templates and timeframes applicable to all activities and reports undertaken by the Provider.

(a) Except where variation is specified and agreed by the parties, for all Services the Provider must:

- i. accept or decline the referral within 1 Business Day of receipt of the referral;
- ii. use any specified Agency templates to complete assessments and reports; and
- iii. where a review of a report is requested due to quality issues, refer to the satisfactory report section at section 3(c) above.

(b) Some Service Standards will vary according to the specific Service. These variations are reflected under the **Additional Requirements** subheadings for the relevant Service.

- (c) The timeframes below apply to the Provider where Additional Requirements are not defined under the description of the relevant Service:
- i. schedule and undertake the Service within 5 Business Days of the referral being accepted by the Provider; and
 - ii. complete and submit a report of satisfactory quality detailing the Provider's findings and recommendations within 5 Business Days of the assessment.

5. SMART goals:

- (a) Rehabilitation program reports are to be prepared in line with SMART goals which are:
- i. **Specific:** they say exactly what you want to achieve, to what extent and who will achieve it;
 - ii. **Measurable:** they track the progress and the outcome (how much/how often/how many);
 - iii. **Achievable:** attainable in the circumstances;
 - iv. **Realistic:** they are clear on what the purpose or benefit is; and
 - v. **Time-bound:** they outline the timeframe for completion ('by when').

6. Consideration of new or additional Information:

- (a) If an Agency provides new or additional information, that may change the Provider's initial opinion, the Agency may discuss this with the Provider and reach agreement on any additional costs for the inclusion of that information in a supplementary or new report, and suitable timeframes.
- (b) In cases where a supplementary or new report is required, any additional costs are to reflect the amount of additional work required as well as suitable timeframes.

Part 2 - Occupational Rehabilitation Services

1. Ergonomic Evaluation - Comprehensive

(a) Delivery method

In-person and virtual, noting that there may be some elements of the Service which can only be conducted in-person. The location and delivery method of this Service is to be agreed to by the Agency and Provider.

(b) Description of the Service

The service is a comprehensive ergonomic evaluation of all equipment, work practices and individual factors. This Service can be used when an Employee reports symptoms or an Injury to their Agency.

(c) Key Requirements

As part of the Service, a Provider must assess an Employee's ergonomic set up, with the aim of preventing Injury, and/or exploring the likely causes of any symptom/s. The Provider must make recommendations regarding appropriate ergonomic support to prevent Injury or alleviate discomfort.

This Service will assess the workstation and ergonomic environment in an office or other location (such as an Employee's home if they are working from home). If an Employee has multiple potential workstations at one Site (e.g., hotdesking), the Provider must consider the workstation being used that day and provide the Employee with specific guidance on setting up a workstation which is correct for them. The Provider may be asked to review more than one workstation if there are significant differences between the workstations. In providing this Service, the Provider must promote the use of evidence based self-management techniques, such as: appropriate Workplace breaks, stretching, change in posture, use of any office equipment (such as a headset, phone, photocopier or computer), keyboard shortcuts and adaptive software. The Provider must also ensure the Employee is aware of the Agency's guidance on office set-up (if available) and provide further education if required.

The Provider must advise and/or make adjustments to the office equipment and ergonomic environment as appropriate.

As part of this assessment, the Provider must provide advice on, and review, the Employee's:

- i. workstation and ergonomic equipment, including the Employee's:
 1. office chair,
 2. desk,
 3. keyboard, mouse and monitor position, and
 4. general workspace (telephone and other equipment);
- ii. portable electronic devices or similar e.g., laptop;
- iii. work practices, including any repetitive tasks and tasks placing stress on the body such as lifting or reaching;
- iv. postural breaks;
- v. lighting e.g., Lux meter;
- vi. noise; and

vii. hazards (e.g., floors, trips, or electrical).

(d) Additional requirements

Nil

(e) Performance expectation

The performance expectation is met when all the elements of a satisfactory report and Service Standards are met.

2. Ergonomic Evaluation - Brief follow up assessment

(a) Delivery method

In-person and virtual, noting that there may be some elements of the Service which can only be conducted in-person. The location and delivery method of this Service is to be agreed to by the Agency and Provider.

(b) Description of the Service

This Service is intended as a follow up assessment to an Ergonomic Evaluation – comprehensive. This Service has the aim of preventing and/or addressing Workplace Injury. This evaluation could include a brief follow up ergonomic evaluation of a workstation and provision of education, adjustments, and advice to prevent or specifically target the source of the Employee's reported Injury to provide relief of symptoms.

(c) Key Requirements

The Provider must assist an Employee by exploring the likely causes of the Employee's symptom/s where relevant and make recommendations regarding appropriate ergonomic support.

This Service includes an assessment of an Employee's office-based workstation or other location (such as the Employee's home if they are working from home). It is expected that during this evaluation, the Provider must promote evidence based self-management techniques such as taking appropriate Workplace breaks, stretching and the use of keyboard shortcuts. The Provider must ensure the Employee is aware of how to set up their own workstation as well as the Agency's guidance on office set-up (if available) and provide further education if required.

The Provider must advise and/or make necessary adjustments to the office equipment as appropriate.

The evaluation must provide advice on and review the following elements of an Employee's workstation (as applicable):

- i. office chair;
- ii. desk;
- iii. keyboard, mouse and monitor position;
- iv. portable electronic devices or similar e.g., laptop;
- v. general workspace (e.g., telephone and other material); and
- vi. postural breaks.

(d) Additional Requirements

Nil

(e) Performance expectation

The performance expectation is met when all the elements of a satisfactory report and Service Standards are met.

3. Ergonomic Services - General

(a) Delivery method

In-person and virtual, noting that there may be some elements of the Service which can only be conducted in person. The location and delivery method of this Service is to be agreed to by the Agency and the Provider.

(b) Description of the Service

This is an hourly ergonomic service for single activities that are linked to the Services already outlined in this document but are not specifically covered by the Service descriptions. These Services are to be undertaken as single defined activities rather than a complete Service such as an ergonomic Assessment or compensation related Assessment.

For example:

- i. a Provider may be asked to check that all chairs or tables in an office space can be adjusted (without requiring a full ergonomic Assessment);
- ii. where an Employee or Employees start using a new piece of equipment but has only recently had a full ergonomic Assessment;
- iii. a new piece of equipment has been rolled out in an office space e.g., adjustable workstations;
- iv. assisting an Employee to install or demonstrate the use of ergonomic equipment;
or
- v. as requested by a RCM, when following up with an Employee to address any unresolved issues following an ergonomic evaluation or Offsite Assessment.

(c) Key Requirements

The ergonomic activities to be completed by a suitably qualified person under this Service are to be consistent with existing requirements for a satisfactory report and Service Standards. The Provider must be compliant with the hourly rates set out in Schedule 4 (Fee Methodology) of the Head Agreement. These rates will differ based on the clinical qualifications of the Provider's Personnel.

(d) Additional Requirements

Prior to the commencement of the Service, the Agency and Provider will agree on the scope, activities, outputs, and hours required.

This Service is to be ergonomically focussed and activities related to Injury prevention and recovery.

(e) Performance expectation

The performance expectation is met when all relevant elements of the Service Standards are met, and any Key Requirements or activities agreed between the Agency and the Provider are finalised.

4. Offsite Assessment

(a) Delivery method

In-person and virtual, noting that there may be some elements of the Service which can only be conducted in-person. The location and delivery method of this Service is to be agreed to by the Agency and the Provider.

(b) Description of the Service

This assessment will identify and assess any risks and/or hazards at an agreed Offsite location (including the Employee's home) and make recommendations as to assess the safety and suitability of the location to be used by the Employee for work purposes.

(c) Key requirements

This assessment must include the following:

- i. provide a brief description of Offsite arrangements and tasks;
- ii. review of:
 1. accessibility;
 2. fire evacuation plan and emergency controls (such as smoke alarms);
 3. lighting and noise;
 4. suitable thermal comfort;
 5. air circulation;
 6. relevant amenities e.g., kitchen and bathroom;
 7. hazards e.g., floors, trips, electrical, or substances; and
 8. a first aid kit; and
- iii. provide other activities as identified in the relevant Work Order, noting this may be an additional cost.

(d) Excluded Services

This assessment excludes WHS, privacy or security risk assessment activities, including those activities that concern:

- i. parking facilities;
- ii. security issues, including window/door locks, security system, rented/owned dwelling, share accommodation etc;
- iii. site structure – brick/weatherboard, number of storeys, house/flat; or
- iv. privacy review for the handling and storage of Confidential Information.

(e) Additional Requirements

Nil

(f) Performance expectation

The performance expectation is met when all the elements of a satisfactory report and Service Standards are met.

5. Rehabilitation Assessment (non-compensable)

(a) Delivery method

In-person and virtual, noting that there may be some elements of the Service which can only be conducted in-person. The location and delivery method of this Service is to be agreed to by the Agency and the Provider.

(b) Description of the Service

A Rehabilitation Assessment (non-compensable) may be conducted for non-compensable physical and/or psychological Injury. This Service provides information on an Employee's Injury or illness, their fitness to remain at, or return to work and recommendations to support recovery and a safe and timely return to work where possible.

A Rehabilitation Assessment (non-compensable) is conducted by a suitably qualified person (WRP) who provides an expert, impartial and informed written opinion about an Employee's capacity to undertake a Rehabilitation Program (non-compensable).

There are 3 subcategories for the Rehabilitation Assessment (non-compensable):

- i. Rehabilitation Assessment (non-compensable) for physical Injuries;
- ii. Rehabilitation Assessment (non-compensable) for psychological Injuries; and
- iii. Combined Rehabilitation Assessment (non-compensable) for both physical and psychological Injuries.

(c) Key Requirements

A WRP should comply with any relevant service delivery standards under Comcare's WRP performance monitoring framework.

The Rehabilitation Assessment (non-compensable) and report must include as a minimum:

- i. a description of the job role, including a breakdown of the inherent requirements, types and frequency of tasks;
- ii. with Employee consent, the Provider must contact the Treating Doctor, supervisor and all other relevant Stakeholders and the report must contain a detailed summary of these discussions. The Provider must make a genuine documented attempt to contact relevant Stakeholders;
- iii. information on the Employee's medical diagnosis, expected recovery timeframe, and a concise medical history of the Employee relevant to the Injury;

- iv. identification of any Workplace restrictions, work capacity, and potential suitable duties where appropriate;
- v. an assessment of an Employee's fitness to remain at or return-to-work and recommendations to support recovery and a safe and timely return to work;
- vi. identification of barriers to return to work (including physical, psychosocial and Workplace culture) and proposed strategies to mitigate, reduce or eliminate these barriers;
- vii. as directed in the referral, other activities that may be required on a case-by-case basis;
- viii. a summary of the information collected and identified throughout the assessment; and
- ix. an assessment of the Employee's capability of undertaking the Rehabilitation Program (non-compensable), including the WRP's opinion and supporting reasons.

If the Employee is assessed as capable of engaging in a Rehabilitation Program (non-compensable) the WRP must:

- i. make recommendations (if any) as to the kind of program the Employee should undertake in consideration of their job role, the goal/s of the program, the services required and the timeframe to achieve the goal/s; and
- ii. any other information that may assist the Agency in providing or arranging the rehabilitation program for the Employee.

The report should not include the WRP's opinion as to whether the Injury is work-related.

(d) Additional Requirements

In addition to the standard Service Requirements, the following Additional Requirements apply to the Service subtypes as follows:

(i) Rehabilitation Assessment (non-compensable) physical Injuries

- i. Verbal preliminary findings must be discussed with the Agency's representative within 2 Business Days of the assessment.
- ii. The Provider must complete and submit a Rehabilitation Assessment (non-compensable) satisfactory report detailing their findings and recommendations within 5 Business Days of the assessment or within another timeframe agreed between the Agency and the Provider.

(ii) Rehabilitation Assessment (non-compensable) psychological Injuries

- i. This assessment must be scheduled and undertaken within 10 Business Days of the referral.
- ii. Verbal preliminary findings must be discussed with the Agency's representative within 2 Business Days of the assessment.

- iii. The Provider must complete and submit a Rehabilitation Assessment (non-compensable) satisfactory report detailing their findings and recommendations within 10 Business Days of the assessment or within another timeframe agreed between the Agency and Provider.

(iii) Rehabilitation Assessment (non-compensable) combined physical and psychological Injuries

In instances where the opinions of two different clinical disciplines are needed for the one Employee, an Agency may consider engaging two separate WRPs to undertake a Combined Rehabilitation Assessment. The WRPs will undertake two separate assessments then discuss their findings.

The requirements of Providers for Combined Rehabilitation Assessments are as follows:

- i. The assessments must be scheduled and undertaken within 10 Business Days of the referral.
- ii. Verbal preliminary findings must be discussed with the Agency's representative within 2 Business Days of the assessment.
- iii. The Providers must complete and submit a Rehabilitation Assessment (non-compensable) satisfactory report detailing their findings and recommendations within 15 Business Days of the assessment. The Providers can either submit:
 - 1. one report addressing all the requirements and detailing their expert agreed opinions, or
 - 2. two separate reports detailing their individual expert agreed opinions that collectively address all the requirements.
- iv. In instances where the Providers have differing opinions as to the Employee's capability of undertaking the rehabilitation program, both Providers must complete and submit Rehabilitation Assessment (non-compensable) satisfactory reports detailing their findings and recommendations within 15 Business Days of the assessment. Both Providers must provide a detailed individual opinion and justify the reasons agreement could not be reached.
- v. Where agreement is not reached, case conferencing is encouraged to reach a timely and appropriate outcome that supports the Employee in their return-to-work objectives.

(e) Performance expectation

The performance expectation is met when all the elements of a satisfactory report, and Service Standards are met, including any Additional Requirements.

6. Rehabilitation Program (non-compensable)

(a) Delivery method

In-person and virtual, noting that there may be some elements of the Service which can only be conducted in-person. The location and delivery method of this Service is to be agreed to by the Agency and the Provider.

(b) Description of Service

A Rehabilitation Program (non-compensable) is designed to support an Employee's recovery and return to work in consideration of their job role. It details their recovery and return to work goals, work duties, rights and responsibilities.

(c) Key requirements

The program must consider the medical advice regarding an Employee's ability to participate in a rehabilitation program and take into account an Employee's current role, existing skills, experience and work capacity. The program must be individualised, outcome based, and contain clearly set out steps to achieve the rehabilitation goals. The Provider must develop and undertake the program with appropriate communication and Consultation with all relevant Stakeholders, including the Employee, RCM, the Employee's supervisor and Treating Doctor/s.

There are four (4) elements which must be detailed in the Rehabilitation Program (non-compensable):

(i) Program development

The program must be developed in Consultation with all relevant Stakeholders (referenced below) and written in plain English. The Rehabilitation Program (non-compensable) must, at a minimum, include the following features:

- i. rehabilitation goal/s (i.e. SMART goal/s);
- ii. details of all relevant Stakeholders (i.e., RCM, Employee, the Employee's supervisor and Treating Doctor/s) and the roles and responsibilities of each individual in working toward the rehabilitation goal/s;
- iii. communication strategies that outline who will be communicated with, and how and when this will occur;
- iv. a detailed schedule of activities required of all Stakeholders;
- v. in consideration of the job role, a task analysis of the suitable duties;
- vi. a review schedule to assess progress; and
- vii. timelines for the delivery of the overall goal and completion of activities.

(ii) Approval

The Provider must submit a draft rehabilitation program for Approval to an Agency prior to the Rehabilitation Program (non-compensable) being implemented.

(iii) Program monitoring

A progress report must at a minimum include:

- i. the Employee's current employment status and job role, and progress toward the goal/s;
- ii. outcomes of reviews (including a recommendation as to whether services should continue or cease);
- iii. identification of any barriers to a return to work, and strategies to address these barriers;

- iv. a summary of intended actions in the next period; and
- v. sufficient information to support the actions.

(iv) Closure report

A closure report must at a minimum include:

- i. the Employee's employment status at the time of the closure report;
- ii. rehabilitation goal/s and progress toward these goal/s. If the Employee is not successful in reaching any goal/s, the closure report must provide a detailed reason as to why; and
- iii. actual cost incurred by the Provider.

(d) Additional Requirements

- i. An initial draft of the rehabilitation program must be submitted for Agency Approval within 5 Business Days of receipt of the referral unless an alternative timeframe is agreed between the Agency and the Provider.
- ii. The final rehabilitation program must be submitted within 10 Business Days of receipt of the referral to allow the Agency's representative to provide Approval for implementation of the rehabilitation program.
- iii. Progress reports as identified in the review schedule must be delivered in the frequency and manner agreed with the Agency.
- iv. Where incapacity exceeds 8 weeks, progress reports must demonstrate case conferencing with the Employee's Treating Doctor.
- v. Case conferences, as a default, will occur at 6 weeks, 12 weeks, 6 months and 12 months or at appropriate intervals as agreed between the Agency and the Provider.
- vi. If additional case conferences are required after 12 months, the timing and frequency should be agreed between the Agency and the Provider.
- vii. The Provider must maintain information and records to be able to demonstrate that all activities in the Approved rehabilitation program are being delivered on time and to a high standard.
- viii. Where an alteration to the program is required due to a need for additional time or funding to achieve the goals, this request must be submitted by the Provider to the Agency's representative in writing no less than 10 Business Days prior to the expiry of the current rehabilitation program/funding request.
- ix. Actual costs must be reasonable and Approved by the Agency's RCM.
- x. A closure report must be provided by the Provider within 5 Business Days of the cessation of the rehabilitation Services.

(e) Performance expectation

The performance expectation is met when all the elements of a satisfactory report and Service Standards are met, including any Additional Requirements.

7. Rehabilitation Assessment (compensable) – section 36 of the SRC Act

(a) Delivery method

In-person and virtual, noting that there may be some elements of the Service which can only be conducted in-person. The location and delivery method of this Service is to be agreed to by the Agency and the Provider.

(b) Description of the Service

An Employee must have submitted a claim for compensation for an Injury prior to a Rehabilitation Assessment (compensable) occurring. The Rehabilitation Assessment (compensable) must be conducted by a 'suitably qualified person' (usually a WRP) who does not require the Employee to undergo an examination as part of the assessment.

There are 3 different subcategories of Rehabilitation Assessments (compensable), which are:

- i. Rehabilitation Assessment (compensable) for physical Injuries;
- ii. Rehabilitation Assessment (compensable) for psychological Injuries; and
- iii. Combined Rehabilitation Assessment (compensable) for physical and psychological Injuries.

(c) Key Requirements

The assessment must align to the rehabilitation provisions of section 36 of the SRC Act, and Comcare's Guidelines for Rehabilitation Authorities 2019. Where a WRP is engaged to do the assessment, the Services must comply with Comcare's WRP performance monitoring framework.

The Rehabilitation Assessment (compensable) report must include as a minimum:

- i. a description of the job role, including a breakdown of the type and duration of tasks;
- ii. with the Employee's consent, the Provider must contact the Treating Doctor, Employee's supervisor and all other relevant Stakeholders and document a detailed summary of these discussions. The Provider must make genuine documented attempts at contacting all relevant Stakeholders;
- iii. information on the Employee's medical diagnosis and expected recovery timeframe, and a concise and relevant history of the Injury;
- iv. in consideration of the job roles and tasks, identification of Workplace restrictions, work capacity and potential suitable duties where appropriate;
- v. an assessment of an Employee's fitness to remain at or return to work and recommendations to support recovery and a safe and timely return to work;
- vi. identification of the barriers preventing the Employee from returning to work including physical, psychosocial and Workplace culture and proposed strategies to mitigate, reduce or eliminate those barriers;
- vii. as directed in the referral, other activities that may be required on a case-by-case basis;

- viii. a summary of the information collected and identified throughout the assessment; and
- ix. an assessment of the Employee's capability of undertaking a rehabilitation program including the WRP's opinion (and supporting reasons).

If the Employee is assessed as capable of engaging in a rehabilitation program, the WRP must:

- i. make recommendations (if any) as to the kind of program the Employee should undertake, the goal/s of the program, the rehabilitation services required and the timeframe to achieve the goal/s; and
- ii. provide any other information that may assist the Agency in providing or arranging the rehabilitation program for the Employee.

The report should not include the WRP's opinion as to whether the Injury is work-related.

(d) Additional Requirements

The report must at a minimum demonstrate evidence of an assessment of an Employee's rehabilitation needs as it relates to an Injury that affects the Workplace (i.e., proposed goal/s, duration, and cost). The report must only be released to the Agency's representative.

In addition to the standard 'service requirements' the following Additional Requirements apply:

(i) Rehabilitation Assessment (compensable) physical Injuries

- i. Verbal preliminary findings must be discussed with the Agency's representative within 2 Business Days of the assessment.
- ii. The Provider must complete and submit a Rehabilitation Assessment (compensable) satisfactory report detailing their findings and recommendations within 5 Business Days of the assessment or within the timeframe agreed between the Agency and the Provider.

(ii) Rehabilitation Assessment (compensable) psychological Injuries

- i. The assessment must be scheduled and undertaken within 10 Business Days of the referral.
- ii. Verbal preliminary findings must be discussed with the Agency's representative within 2 Business Days of the assessment.
- iii. The Provider must complete and submit a Rehabilitation Assessment (compensable) satisfactory report detailing their findings and recommendations within 10 Business Days of the assessment or within the timeframe agreed between the Agency and the Provider.

(iii) Rehabilitation Assessment (compensable) combined physical and psychological Injuries

In instances where the opinions of two different clinical disciplines are needed for the one Employee, an Agency can consider engaging two separate WRPs to undertake a Combined Rehabilitation Assessment. The WRPs will undertake two separate assessments then discuss their findings. The requirements of Providers for Combined Rehabilitation Assessments are as follows:

- i. The assessments must be scheduled and undertaken within 10 Business Days of the Referral;
- ii. Verbal preliminary findings must be discussed with the Agency's representative within 2 Business Days of the assessment;
- iii. The Provider must complete and submit a Rehabilitation Assessment satisfactory report detailing their findings and recommendations within 15 Business Days of the assessment. The Providers can either submit:
 1. one report addressing all the requirements and detailing their expert agreed opinions, or
 2. two separate reports detailing their individual expert agreed opinions that collectively address all the requirements.
- iv. In instances where the Providers have differing opinions as to the Employee's capability of undertaking a rehabilitation program, both Providers must complete and submit a Rehabilitation Assessment satisfactory report detailing their findings and recommendations within 15 Business Days of the assessment. Both Providers must provide a detailed individual opinion and clearly set out the reasons agreement could not be reached.
- v. Where agreement is not reached, case conferencing is encouraged to reach a timely and appropriate outcome that supports the Employee in their return-to-work objectives.

(e) Performance expectation

The performance expectation is met when all the elements of a satisfactory report and Service Standards are met, including any Additional Requirements.

8. Rehabilitation Program (compensable) – section 37 of the SRC Act

(a) Delivery method

In-person and virtual, noting that there may be some elements of the Service which can only be conducted in-person. The location and delivery method of this Service is to be agreed to by the Agency and the Provider.

(b) Description of the Service

A Rehabilitation Program (compensable) is designed to support an Employee's recovery and return to work. It details their recovery and return to work goals, work duties and rights and responsibilities.

(c) Key Requirements

An Employee must have submitted a claim for compensation. The program must comply with the rehabilitation provisions of the SRC Act, Comcare's Guidelines for Rehabilitation Authorities 2019, and the Comcare's WRP performance monitoring framework.

The program must consider the medical advice regarding an Employee's ability to participate in a rehabilitation program and take into account an Employee's existing job role, skills, experience and work capacity. The program must be individualised, outcome based, and contain clearly set out steps to achieve the rehabilitation goals. The Provider must develop and undertake the program with appropriate communication and Consultation with all relevant Stakeholders, including the Employee, RCM, the Employee's supervisor and Treating Doctor/s.

There are four (4) elements which must be detailed in the Rehabilitation Program (compensable):

(i) Program development

The program must be developed in Consultation with all relevant stakeholders, be written in plain English and provide context about the purpose of the plan and goals. The program must, at a minimum, include the following features:

- i. rehabilitation goal/s (SMART goal/s);
- ii. details of all relevant Stakeholders (i.e., RCM, Employee, the Employee's supervisor and Treating Doctor/s) and their roles and responsibilities in working toward the rehabilitation goal/s;
- iii. communication strategies that outline who will be communicated with, and how and when this will occur;
- iv. a detailed schedule of activities required of all Stakeholders;
- v. task analysis of the suitable duties as directed in the referral;
- vi. review schedule; and
- vii. timelines for the delivery of the overall goal and completion of activities.

(ii) Approval

The Provider must submit the draft rehabilitation program for Approval to the Agency prior to the rehabilitation program being implemented.

(iii) Program monitoring

A progress report at a minimum must include:

- i. the Employee's current status and progress toward the goal;
- ii. outcomes of reviews (including a recommendation as to whether services should continue or cease);
- iii. identification of ongoing return to work barriers (including physical, psychosocial and Workplace culture) and proposed strategies to mitigate, reduce or eliminate these barriers;
- iv. a summary of intended actions in the next period; and
- v. sufficient information to support the actions.

(iv) Closure report.

Comcare's [Rehabilitation Program Closure Record form](#) must be used and submitted through the WRP Portal and the Provider must also provide a copy of the Rehabilitation Program Closure Record to the Agency.

(d) Additional requirements

- i. The Provider must use all relevant Comcare approved forms when undertaking this Service.
- ii. An initial draft of the rehabilitation program must be submitted for Agency Approval within 5 Business Days of receipt of the referral unless an alternative timeframe is agreed between the Agency and the Provider.
- iii. The final rehabilitation program must be submitted within 10 Business Days of receipt of the referral to allow the Agency's representative to provide Approval for implementation of the rehabilitation program.
- iv. Progress reports must be delivered in the frequency and manner agreed to by the Agency. Where incapacity exceeds 8 weeks, progress reports must demonstrate case conferencing with the Employee's Treating Doctor.
- v. Case conferences, as a default, will occur at 6 weeks, 12 weeks, 6 months and 12 months or at appropriate intervals as agreed between the Agency and the Provider. If additional case conferences are required after 12 months the timing and frequency should be agreed between the Agency and the Provider.
- vi. The Provider must maintain information and records to be able to demonstrate that all activities in the Approved rehabilitation program are being delivered on time and to a high standard.
- vii. Where an alteration to the program is required due to a need for additional time or funding to achieve the goals, this must be submitted to the Agency's representative in writing no less than 10 Business Days prior to the expiry of the current rehabilitation program/funding request.
- viii. Actual costs must be reasonable and within the Approved amount.
- ix. A closure report must be provided by the Provider within 5 Business Days of the cessation of the rehabilitation Services.

(e) Performance expectation

The performance expectation is achieved when all the elements of a satisfactory report and Service Standards are met, including any Additional Requirements.

9. Functional Capacity Evaluation

(a) Delivery method

In-person and virtual, noting that there may be some elements of the Service which can only be conducted in-person. The location and delivery method of this Service is to be agreed to by the Agency and the Provider.

(b) Description of the Service

A Functional Capacity Evaluation is a series of standard tests used to objectively assess an Employee's functional and physical capacities for work in their job role. This testing must be completed by an occupational therapist, physiotherapist, exercise physiologist or other suitably qualified person.

(c) Key requirements

This evaluation is used to determine an Employee's abilities, over a range of physical demands required for the job role. If an Employee has an Injury or Injuries, this assessment will aim to facilitate their recovery and return to work. It will match what an Employee can do, against the inherent requirements of a job role (either pre-Injury duties or alternate duties).

The evaluation must as a minimum:

- i. assess the Employee's capacity to meet the demands of specific duties of a job role;
- ii. specify the duties, including proposed return to work duties or alternate duties; and
- iii. make recommendations about interventions for tasks such as safe manual handling, or mitigation of job specific psychological stress (e.g., for first responders) and other actions which will facilitate return to work.

(d) Additional Requirements

Verbal preliminary findings must be discussed with the Agency's representative within 2 Business Days of the evaluation.

(e) Performance expectation

The performance expectation is achieved when all the elements of a satisfactory report and Service Standards are met, including any Additional Requirements.

10. Vocational Assessment

(a) Delivery method

In-person and virtual, noting that there may be some elements of the Service which can only be conducted in-person. The location and delivery method of this Service is to be agreed to by the Agency and the Provider.

(b) Description of the Service

A Vocational Assessment is used to analyse an Employee's current skills and experience, set vocational goals and outline potential job options. This assessment considers an Employee's functional and work capacity and identifies transferable skills. It also includes an assessment of the local labour market information. A comprehensive report outlines an Employee's vocational options, retraining needs and a labour market analysis.

(c) Key Requirements

The assessment may include as a minimum:

- i. an interview with the Employee;
- ii. the use of objective vocational analysis tools which demonstrate an Employee's core competencies and transferrable skills (not just their interests);
- iii. consideration of suitable employment options for the Employee;
- iv. evidence of recent local labour market analysis for the potential transfer of applicable skills into suitable vocational options;
- v. where internal redeployment may be required, contact with the Agency's representative who will liaise with the Agency's workforce planning branch; and
- vi. recommendation/s for:
 1. job seeking assistance for the Employee (including assistance with an Employee's resume); and
 2. a work trial for the Employee.

(d) Additional Requirements

Nil

(e) Performance expectation

The performance expectation is achieved when all the elements of a satisfactory report and Service Standards are met.

11. Work Capacity Assessment

(a) Delivery method

In-person and virtual, noting that there may be some elements of the Service which can only be conducted in-person. The location and delivery method of this Service is to be agreed to by the Agency, the Employee and Provider.

(b) Description of the Service

This assessment is a task analysis of the functional requirements of an Employee's pre-Injury job or proposed suitable duties. It is a comprehensive assessment of an Employee's individual circumstances. The component tasks and the functional requirements of each task are identified. The frequency of undertaking each task is also assessed.

(c) Key Requirements

The assessment must at a minimum include the following information gathering activities:

- i. discussion with the Employee, their Treating Doctor and supervisor e.g., review/confirmation of description of tasks;
- ii. assessment and observation of the duties undertaken in a particular job to identify the physical, cognitive and emotional demands of the job;

- iii. understanding of the frequency of each job demand; and
- iv. consideration of any Employee restrictions, whether physical or psychological.

(d) Additional Requirements

Nil

(e) Performance expectation

The performance expectation is achieved when all the elements of a satisfactory report and Service Standards are met, including any Additional Requirements (if relevant).

Part 3 - Medical Services

1. Background

Medical assessment services may be:

- i. an individual medical assessment conducted by a single LQMP, or
- ii. an integrated medical assessment conducted by more than one LQMP of two different medical subspeciality areas.

2. Integrated Medical Assessment

In instances where the opinions of two different medical subspeciality areas are needed for the one Employee, an Agency can consider engaging two separate LQMPs to undertake an **integrated medical assessment**. The LQMPs (one of whom can be an occupational physician) must undertake two separate examinations, discuss their findings to reach agreement and then submit:

- i. one report addressing all the requirements and detailing their expert agreed opinions, or
- ii. two separate reports detailing their individual expert agreed opinions that collectively address all the requirements.

In instances where the LQMPs have differing opinions, both LQMPs must complete and submit two separate reports detailing their individual expert opinions that collectively address all the requirements. Both LQMPs must provide a detailed individual opinion and justify the reasons agreement could not be reached. Where there are differing opinions, case conferencing is encouraged to reach a timely decision that best supports the Employee in their return to work objectives.

Additionally, an integrated medical assessment may be further described as either an:

- i. integrated medical assessment 'appointment'; or
- ii. integrated medical assessment 'file review'.

An integrated medical assessment 'appointment' involves one or both LQMPs undertaking their assessment/s via an appointment (virtual or in-person) with the Employee. Whereas an integrated medical assessment 'file review' involves both LQMPs undertaking comprehensive desktop assessments of existing medical history and documentation relevant to an Employee's medical history. An integrated medical assessment 'file review' does not involve a new examination of the Employee.

There may be occasions where a medical assessment may consider the findings of an Occupational Rehabilitation Services or Specialist Services i.e., a Neuropsychological Assessment. These occasions should be considered individual not integrated medical assessments.

3. Fitness for Duty Examination

(a) Delivery method

In-person and virtual, noting that there may be some elements of the Service which can only be conducted in-person. The location and delivery method of this Service is to be agreed to by the Agency and Provider.

(b) Description of the Service

A Fitness for Duty Examination is an impartial medical examination conducted at the request of an Agency Head (as defined in the *Public Service Regulations 2023* (Cth)) or their delegate under the *Public Service Act 1999* and Regulations 10(2) and 11(2) of the *Public Service Regulations 2023*. A Fitness for Duty Examination may be an individual or integrated medical assessment and is usually conducted by an occupational physician and/or psychiatrist.

These examinations may be used where an Employer has concerns about an Employee's fitness for duty, ability to fulfil the duties reasonably required of them in their job role, and capacity to perform the inherent requirements of their role. The delegate may require the Employee to undergo a medical assessment by a LQMP to assess capacity.

A fitness for duty assessment is conducted with reference to the specific demands of a job role or inherent requirements. Employers need to provide Employees and assessors with detailed information about the inherent requirements of the job role. This information provides a context to ascertain whether an Employee can perform the role safely, or whether reasonable adjustments need to be made to enable the Employee to perform the inherent requirements of their role.

(c) Key Requirements

A delegate can request a Fitness for Duty Examination at any time if there is a concern that the Employee's state of health could, or is, preventing them from fulfilling their job role (with reference to the inherent requirements of their role), including if the Employee's state of health:

- i. is or may be affecting their work performance;
- ii. did or is very likely to cause an extended absence from work;
- iii. did or is very likely to cause them to be a danger to themselves, other Employees, or members of the public;
- iv. may be affecting their standard of conduct;
- v. may impact their ability to perform new duties; or
- vi. may be a factor in a decision relating to the Employee travelling and working overseas as part of their employment.

A Fitness for Duty Examination undertaken by a LQMP may include:

- i. an assessment of the Employee's medical history;
- ii. an assessment of the Employee's occupational requirements/capacity;
- iii. a medical examination of the Employee;

- iv. with the Employee's consent, a Consultation with the Employee's Treating Doctor/s;
- v. a professional opinion of the fitness of an Employee to undertake the job role and meet the inherent requirements (with or without reasonable adjustments); or
- vi. specific assessments and opinion as requested by the Agency, for example, guidance around the Workplace management of the Employee's medical condition (physical, psychological or both).

(d) Additional Requirements

Providers must ensure the LQMP/s undertaking the examination/s:

- i. provide verbal preliminary findings to an Agency's representative within 2 days of the examination; and
- ii. completes and submits a satisfactory report detailing their findings and recommendations within 5 Business Days of the examination for a single assessment, or 15 Business Days for an integrated medical examination, or within another timeframe as agreed between the Agency and the Provider.

(i) Supplementary Reports

This service may require a **supplementary report**.

A supplementary report is needed if new or additional information is provided to an Agency. This information is usually provided by the Employee or their Treating Doctor after they have had time to review and consider the Provider's report and recommendations. This new or additional information may take several weeks to obtain and be presented to an Agency.

If an Agency provides new or additional information, that may change the initial opinion, the Agency may discuss this with the Provider and reach agreement on any additional costs for the inclusion of that information and suitable timeframes in the Provider's supplementary or new report.

In cases where a supplementary or new report is required this should be costed to reflect the amount of work required as well as suitable timeframes.

When a supplementary report is requested by the Agency, the Provider/s will review and include the new or additional information in the initial report and submit an updated report within:

- i. 5 Business Days of receiving the additional information for a single assessment;
- ii. 15 Business Days for an integrated medical assessment: or
- iii. another timeframe as agreed between the Agency and the Provider.

(e) Performance expectation

The performance expectation is achieved when all the elements of a satisfactory report and Service Standards are met, including any Additional Requirements.

4. Rehabilitation Assessment (medical) – section 36 of the SRC Act

(a) Delivery method

In-person and virtual, noting that there may be some elements of the Service which can only be conducted in-person. The location and delivery method of this Service is to be agreed to by the Agency and the Provider.

(b) Description of the Service

Under the SRC Act, a Rehabilitation Assessment can only be made by a person who is a LQMP or a suitably qualified person (usually a WRP). An Employee must have submitted a claim for compensation for an Injury prior to a Rehabilitation Assessment occurring.

A Rehabilitation Assessment (medical) is defined as a separate Service to a Rehabilitation Assessment (compensable). A Rehabilitation Assessment (medical) must be conducted by a LQMP who must examine an Employee as part of this assessment.

There are 3 different subcategories of Rehabilitation Assessments (medical), which are:

- i. Rehabilitation Assessment (medical) for physical Injuries;
- ii. Rehabilitation Assessment (medical) for psychological Injuries; and
- iii. Combined Rehabilitation Assessment (medical) for physical and psychological Injuries (this is an integrated medical assessment).

(c) Key Requirements

The Assessment must align to the rehabilitation provisions of section 36 of the SRC Act, and Comcare's Guidelines for Rehabilitation Authorities 2019.

The Rehabilitation Assessment and report must include as a minimum:

- i. consideration of the Employee's job roles and the inherent requirements of the job;
- ii. with the Employee's consent, the Provider must contact the Treating Doctor, Employee's supervisor and all other relevant Stakeholders and a detailed summary of these discussions. The Provider must make genuine attempts at contacting Stakeholders and may be asked to evidence these attempts;
- iii. information on the Employee's medical diagnosis and expected recovery timeframe, and a concise and relevant history of the Injury;
- iv. identification of Workplace restrictions, work capacity and potential suitable duties where appropriate;

- v. an assessment of the Employee's fitness to remain at or return-to-work and recommendations to support recovery and a safe and timely return-to-work;
- vi. identification of the barriers to return to work (including consideration of Workplace issues) and proposed strategies to address/resolve those barriers;
- vii. as directed in the referral, other activities that may be required on a case-by-case basis;
- viii. a summary of the information collected and identified throughout the Assessment; and
- ix. an assessment of the Employee's capability of undertaking a Rehabilitation Program (compensable) including the LQMP's opinion (and supporting reasons).

If the Employee is assessed as capable of engaging in a Rehabilitation Assessment (medical) then the Assessment and report must include:

- i. the recommendations (if any) as to the kind of program the Employee should undertake, the goal/s of the program, the services required and the timeframe to achieve the goal/s; and
- ii. any other information that may assist the Agency in providing or arranging the rehabilitation program for the Employee.

The report should not include the LQMP's opinion as to whether the Injury is work-related.

(d) Additional Requirements

The report must at a minimum demonstrate evidence of an assessment of an Employee's rehabilitation needs as it relates to an Injury that affects the performance of their job role and the Workplace (i.e., proposed goal/s, duration, and cost). The report must only be released to the Agency's representative.

In addition to the standard 'service requirements' the following Additional Requirements apply to each of the Service subtypes as follows:

(i) Rehabilitation Assessment (medical) physical Injuries

- i. Verbal preliminary findings must be discussed with the Agency's representative within 2 Business Days of the assessment.
- ii. The Provider must complete and submit a Rehabilitation Assessment (medical) satisfactory report detailing their findings and recommendations within 5 Business Days of the assessment or within another timeframe as agreed between the Agency and Provider.

(ii) Rehabilitation Assessment (medical) psychological Injuries

- i. The assessment must be scheduled and undertaken within 10 Business Days of the referral.
- ii. Verbal preliminary findings must be discussed with the Agency's representative within 2 Business Days of the assessment.

- iii. The Provider must complete and submit a Rehabilitation Assessment (medical) satisfactory report detailing their findings and recommendations within 10 Business Days of the assessment or within another timeframe as agreed between the Agency and Provider.

(iii) Rehabilitation Assessment (medical) integrated medical assessments

- i. The assessments must be scheduled and undertaken within 10 Business Days of the referral.
- ii. Verbal preliminary findings must be discussed with the Agency's representative within 2 Business Days of the assessment.
- iii. The Providers must complete and submit a Rehabilitation Assessment (medical) satisfactory report detailing their findings and recommendations within 15 Business Days of the assessment.
- iv. Reports must be submitted as outlined within the integrated medical assessment requirements above.

(e) Performance expectation

The performance expectation is achieved when all the elements of a satisfactory report and Service Standards are met, including any Additional Requirements.

5. Combined Rehabilitation Assessment and Fitness for Duty Examination

(a) Delivery method

In-person and virtual, noting that there may be some elements of the Service which can only be conducted in-person. The location and delivery method of this Service is to be agreed to by the Agency and the Provider.

(b) Description of the Service

The Fitness for Duty Examination combined with a Rehabilitation Assessment (medical) is a single comprehensive medical assessment producing two separate reports.

(c) Key Requirements

This combined service must ensure each of the Key Requirements for both Rehabilitation Assessment (medical) and Fitness for Duty Examination Services, as outlined in this document, are met.

(d) Additional Requirements

This combined Service must ensure each of the Additional Requirements for both Rehabilitation Assessment (medical) and Fitness for Duty Examination services, as outlined in this document, are met.

(i) Supplementary Reports

This Service may require a **supplementary report**.

A supplementary report is needed if new or additional information is provided to an Agency. This information is usually provided by the Employee or their Treating Doctor after they have had time to review and consider the Provider's report and recommendations. This new or additional information may take several weeks to obtain and be presented to an Agency.

If an Agency provides new or additional information, that may change the initial opinion, the Agency may discuss this with the Provider and reach agreement on any additional costs for the inclusion of that information in the Provider's supplementary or new report and suitable timeframes.

In cases where a supplementary or new report is required the cost of this report should reflect the amount of work required.

When a supplementary report is needed, the Provider/s will review and include this new or additional information and submit an updated report within:

- i. 5 Business Days of receiving the additional information for a single assessment; or
- ii. 15 Business Days for an integrated medical assessment; or
- iii. another timeframe as agreed between the Agency and Provider.

(e) Performance expectation

The performance expectation is achieved when all the elements of a satisfactory report and Service Standards are met, including any Additional Requirements.

6. Pre-employment Fitness Examination

(a) Delivery method

In-person and virtual, noting that there may be some elements of the Service which can only be conducted in-person. The location and delivery method of this Service is to be agreed to by the Agency and the Provider.

(b) Description of the Service

A pre-employment medical examination to determine overall health, physical and psychological fitness for employment where a professional opinion is provided as to the fitness of the Employee to undertake the duties required.

(c) Key requirements

An Agency will supply a Provider with a detailed description of the job role and inherent requirements. The examination will consider whether an Employee can fulfil the inherent requirements of the job role in consideration of their medical assessment. The examination will only assess attributes and respond to Agency questions that are relevant to the employment role.

The assessment may include:

- i. an assessment of the Employee's medical history;
- ii. an assessment of the Employee's occupational requirements;
- iii. a non-invasive medical examination of the Employee;
- iv. if Employee consent is provided, a Consultation with their Treating Doctor;
- v. an audiometry; and
- vi. an eyesight test.

(d) Additional Requirements

- i. Verbal preliminary findings must be discussed with an Agency's representative within 2 Business Days of the examination.
- ii. The Provider must complete and submit a satisfactory report detailing their findings and recommendations within:
 1. 5 Business Days of the examination for a single examination;
 2. 15 Business Days where specialised assessments are required; or
 3. another timeframe as agreed between the Agency and the Provider.

(e) Performance expectation

The performance expectation is achieved when all the elements of a satisfactory report and Service Standards are met, including any Additional Requirements.

7. Overseas or Remote Area Pre-deployment Medical Fitness Examination

(a) Delivery method

In-person and virtual, noting that there may be some elements of the Service which can only be conducted in-person. The location and delivery method of this Service is to be agreed to by the Agency, the Employee and Provider.

(b) Description of the Service

An impartial, comprehensive medical assessment that assists an Agency in determining whether an Employee is medically suitable to be considered, offered, or to remain in, an overseas or remote area job role, either on a fixed term or ongoing basis. In addition, if an Employee has been working at an overseas location including within Australia's Antarctic Program (subantarctic, Southern Ocean and Antarctica), examinations may be conducted prior, during and after (if returned to Australia) deployment.

(c) Key Requirements

Examinations must be undertaken by an LQMP with experience in occupational medical assessment and in consideration of the requirements of the job role and inherent requirements.

The Service includes consideration of an Employee's relevant medical history and Consultation with their Treating Doctor/s where appropriate.

Additional diagnostic testing may be required and could include:

- i. pathology;
- ii. radiology;
- iii. electrocardiogram testing (ECG) (12 lead);
- iv. Exercise Stress ECG Cardiovascular Testing;
- v. drug and alcohol testing; and
- vi. respiratory function testing.

The nature and type of diagnostic testing required as part of this Service will be agreed by the Agency and the Provider.

(d) Additional Requirements

- i. The LQMP who conducted the assessment must discuss verbal preliminary findings with the Agency's representative within 2 days of the Employee's examination;
- ii. The Provider must complete and submit a satisfactory report detailing their findings and recommendations within:
 1. 10 Business Days of the examination;
 2. 15 Business Days where specialised assessments are required; or
 3. another timeframe agreed between the Agency and Provider.
- iii. If an Employee is currently at work and the LQMP has determined that they are unfit for work, the Agency's representative (and the Employee) must be immediately notified.

(e) Performance expectation

The performance expectation is achieved when all the elements of a satisfactory report and Service Standards are met, including any Additional Requirements.

Part 4 - Specialist Services

1. Neuropsychological Assessment

(a) Delivery method

In-person and virtual, noting that there may be some elements of the Service which can only be conducted in-person. The location and delivery method of this Service is to be agreed to by the Agency and the Provider.

(b) Description of the Services

An impartial and comprehensive neuropsychological assessment and report conducted by an AHPRA endorsed clinical neuropsychologist. A neuropsychological assessment may be required where there is a concern that the Employee's state of health may be affecting their ability to perform their duties, particularly in relation to memory, cognitive ability, problem solving and the learning and retention of new information.

A neuropsychological assessment may be for the purposes of:

- i. assessing an Employee's fitness for duty in consideration of their job role and inherent requirements of that job (see Regulations 10(2) and 11(2) of the *Public Service Regulations 2023* (Cth)); or
- ii. understanding and Employee's capacity to undertake a rehabilitation program (section 36 of the SRC Act).

(c) Key Requirements

A neuropsychological report may be considered as part of an invalidity retirement assessment (if required by the Agency). However, this should not be the focus of the assessment as the Services are directed at return to work activities rather than retirement.

The criteria for invalidity requirement are set out by the Commonwealth Superannuation Corporation who engage their own assessors. For more information on invalidity retirement please see the [Comcare fact sheet](#).

A neuropsychological assessment and report must include:

- i. an assessment of the Employee's medical history;
- ii. an assessment of the Employee's occupational requirements/capacity in consideration of the Employee's job role and inherent requirements of that role;
- iii. neuropsychological testing and outcomes of such testing;
- iv. Consultation with treating LQMPs (the assessor must obtain Employee consent to do this); and
- v. any specific assessments and opinions as requested by the Agency, for example, guidance around the Workplace management of the Employee's medical condition.

The assessment and report may also include:

- i. a professional opinion of the fitness of the Employee to undertake the duties required by the Employee; and
- ii. an opinion about whether an Employee is capable of undertaking, or continuing to undertake a rehabilitation program. Where the Employee is assessed as being capable, the report must also include recommendations on the supports that such a program should have/ be included.

(d) Additional Requirements

The Provider must consider the safety of the Employee when discussing the outcome of the assessment, including the following requirements:

- i. if the rehabilitation authority receives a written rehabilitation Assessment under section 36 of the SRC Act, the Provider must provide a copy of that written rehabilitation Assessment to:
 1. the Employee; or
 2. the Employee's Treating Doctor and/or other Treating Health Professional, where the Employee's medical condition necessitates the rehabilitation Assessment first being released to that person;
- ii. immediately Notifying the RCM and Employee, if the neuropsychologist undertaking the assessment has determined that the Employee is unfit for work;
- iii. ensuring that the neuropsychologist undertaking the assessment provides verbal preliminary findings to the RCM within 2 Business Days of the assessment; and
- iv. completing and submitting a satisfactory report detailing the findings and recommendations within 15 Business Days of the assessment, or within another timeframe as agreed between the Agency and the Provider.

(i) Supplementary Reports

This service may require a **supplementary report**.

A supplementary report is needed if new or additional information is provided to an Agency. This information is usually provided by the Employee or their Treating Doctor after they have had time to review and consider the Provider's report and recommendations. This new or additional information may take several weeks to obtain and be presented to an Agency.

If an Agency provides new or additional information, that may change the initial opinion, the Agency may discuss this with the Provider and reach agreement on any additional costs for the inclusion of that information in the Provider's supplementary or new report and suitable timeframes.

In cases where a supplementary or new report is required this should be costed to reflect the amount of work required as well as suitable timeframes.

When a supplementary report is needed the Provider/s will review and include the new or additional information and submit an updated report within:

- i. 5 Business Days of receiving the additional information for a single assessment; or
- ii. 15 Business Days for an integrated medical assessment; or
- iii. another timeframe as agreed between the Agency and the Provider.

(e) Performance expectation

The performance expectation is achieved when all the elements of a satisfactory report and Service Standards are met, including any Additional Requirements.

2. Health Advisory Services

(a) Delivery method

In-person and virtual, noting that there may be some elements of the Service which can only be conducted in-person. The location and delivery method of this Service is to be agreed to by the Agency and Provider.

(b) Description of the Service

This is an hourly advisory Service, that may be physical and/or psychological in nature. Health Advisory Services are intended to support the knowledge of key Personnel within an Agency in matters relating to rehabilitation and/or medical activities. Health Advisory Services are not intended to be used in place of more suitable Services or on individual Employee matters such as Rehabilitation Assessments or a Fitness for Duty Examinations.

These Services may include:

- i. providing advice and support to design, deliver, and evaluate Workplace health and Injury management initiatives and practices in the areas of prevention, early intervention, and rehabilitation/recovery;
- ii. providing advice around interpretation of complex medical information;
- iii. providing coaching and practical advice to managers in the business in supporting Employees who experience significant health challenges, and/or the management of complex behaviours at work; or
- iv. providing coaching, education, and advice to relevant Agency Personnel (i.e., the RCM) to improve their knowledge and skills in the domain of health and Injury Management.

(c) Key Requirements

The Health Advisory Services may be provided by a LQMP or a suitably qualified person (e.g., a psychologist, occupational therapist, WRP, physiotherapist etc). Providers will need to be compliant with the hourly rates set out within Schedule 4 (Fee Methodology) of the Head Agreement, as the rates will differ based on the clinical qualifications of the required Provider's Personnel.

(d) Additional Requirements

Prior to the commencement of any single defined activity, the Agency and the Provider will agree on the scope, activities, outputs, and hours required.

(e) Performance expectation

This Service does not necessarily involve an assessment or report, therefore, the Service Standards apply to the content and accuracy of information provided in the form agreed to between the Agency and the Provider. The performance expectation is achieved when all agreed Key Requirements are met, and any activities or outputs agreed to between the Agency and the Provider are finalised.

3. Specialist Audiometry Testing

(a) Delivery method

In-person and virtual, noting that there may be some elements of the Service which can only be conducted in-person. The location and delivery method of this Service is to be agreed to by the Agency, the Employee and Provider.

(b) Description of the Service

The provision of air conduction audiometric testing and assessment of audiograms in accordance with the procedures and requirements specified in Safe Work Australia's Code of Practice for managing Noise and Preventing Hearing Loss at Work and the latest Australian standard on occupational noise management by a competent and formally trained person/s.

(c) Key requirements

Employees may be referred for audiometry testing by the Agency on a case-by-case basis or where required under the *Work Health and Safety Regulations 2011* (Cth) when Employees are exposed to noise that exceeds the most current exposure standard for noise.

This measurement of Workplace noise is taken independently by an appropriately trained and qualified person using the then current approved standard for measuring occupational noise as recognised by the *Work Health and Safety Regulations 2011* (Cth). The current applicable standard is AS/NZS 1269.1:2005 (Occupational noise management – Measurement and assessment of noise emission and exposure), which may be updated from time to time.

Audiometric assessments examine the effect of the measured level of noise on the hearing of an individual or group of individuals. It may include:

- i. *Baseline Assessment*: This test will be conducted for any Employee that is either new to the Agency or works in an area that has been identified as having hazardous noise. This assessment should be conducted within 3 months of the Employee commencing work in that area. A Provider must conduct this assessment for all new Employees who are exposed to hazardous noise and required to wear hearing protection as a regular component of their work. Baseline Assessment must be conducted as set out in the most current standards.
- ii. *Monitoring Assessment*: This test is required to be conducted every 2 years, or every 6 months on Employees who are exposed to noise levels that pose a risk to hearing as set out under the most current standards.
- iii. Hearing levels (at all frequencies) are assessed to determine hearing loss and the level of noise that will cause damage to hearing is determined.

(d) Additional Requirements

The Provider must complete and submit a satisfactory report detailing their findings and recommendations within:

- i. 10 Business Days of the examination for a single examination or testing; or
- ii. another timeframe agreed between the Agency and Provider.

This report must include:

- i. an independently measured level of Workplace noise against the relevant Workplace standard;
- ii. the outcome of an Employee's assessment, or any related assessments;
- iii. recommendations based on an Employee's test result as to their ability to perform the relevant duties;
- iv. the suitability and effectiveness of noise controls and adjustments such as hearing protection, relocation and shielding from noise; and
- v. an assessment that allows effective comparative monitoring assessments for future audio testing after baseline testing.

(e) Performance expectation

The performance expectation is achieved when all the elements of a satisfactory report and Service Standards are met, including any Additional Requirements.

Attachment B to the Statement of Requirements

CONTRACT MANAGEMENT DOCUMENTATION

Item	Document name	Content requirements	Approximate length	Due date for delivery to the Lead Agency
1.	Operating Model	The Operating Model must detail the Provider's operating and business structure, including: <ul style="list-style-type: none"> a) ownership arrangements; b) company structure (including any subsidiary or parent company arrangements); and c) the Provider's office locations. 	Two A4 page	On: <ul style="list-style-type: none"> a) the Commencement Date; and b) promptly (or otherwise within no later than 3 Business Days) following a change to the Provider's operating and business structure.
2.	Insurance Certificates	The Provider must provide to the Lead Agency its latest certificates of currency (as provided by the Provider's nominated insurance coverage provider), in accordance with clause 28 of the Head Agreement.	Not applicable.	On: <ul style="list-style-type: none"> a) the Commencement Date; and b) each anniversary date of the Commencement Date.
3.	Data Security and Protection Plan	The Data Security and Protection Plan must: <ul style="list-style-type: none"> a) detail the steps taken by the Provider to meets its obligations in relation to Agency Data; b) describe the internal processes and safeguards that the Provider has established to protect Agency Data from unauthorised access, use, misuse, destruction or loss; c) provide information about any training that has been provided to the Provider's Personnel on privacy and data security; d) detail the systems employed by the Provider to store Agency Data and the locations of these systems; and e) identify whether the Agency Data has been exposed to any cyber or information security 	Three A4 pages.	On: <ul style="list-style-type: none"> a) the Commencement Date; and b) promptly (or otherwise within no later than 3 Business Days) following any update or amendment to the Data Security and Protection Plan.

Item	Document name	Content requirements	Approximate length	Due date for delivery to the Lead Agency
		threat, risk, or intrusion and, if so, any details of such threats, risks, or intrusions.		
4.	Personnel and Training Plan	<p>The Personnel and Training Plan must:</p> <p><i>Personnel</i></p> <p>a) demonstrate that the Provider's Personnel are properly educated, trained, qualified and appropriately skilled and experienced to deliver the Services to Agencies; and</p> <p>b) describe the qualifications, experience, and competencies of each Key Provider Personnel member.</p> <p><i>Training</i></p> <p>c) the Provider's approach to ensuring all Personnel receive adequate training to demonstrate a working knowledge of:</p> <ul style="list-style-type: none"> i. the Services, including the principles and objectives of ORAMS; ii. the relevance of ORAMS to the SRC Act and associated legislation; iii. the Portal, and the use of any other support systems (including any integration and access issues), to a level accepted by the Lead Agency; and iv. relevant Commonwealth legislation and statutory requirements (as applicable to the Provider), including in respect of work, health and safety, workers' compensation and the Privacy Act. 	Three A4 pages	<p>On:</p> <ul style="list-style-type: none"> a) the Commencement Date; and b) promptly (or otherwise within no later than 3 Business Days) following any update or amendment to the Personnel and Training Plan.

Item	Document name	Content requirements	Approximate length	Due date for delivery to the Lead Agency
5.	Risk Management Plan	<p>The Risk Management Plan must:</p> <ul style="list-style-type: none"> a) identify any risks (including, risks related to fraud, business continuity, disaster recovery, data protection and data security) that the Provider considers may impact the successful delivery of the Services; and b) an assessment of each risk identified, including in relation to: <ul style="list-style-type: none"> i. the potential impact of the identified risk; ii. proposed mitigations to reduce the likelihood and potential consequence of the identified risk; and iii. the status of the mitigation treatments. 	Two A4 pages	<p>On:</p> <ul style="list-style-type: none"> a) the Commencement Date; and b) promptly (or otherwise within no later than 3 Business Days) following the Provider identifying a new risk; and c) each anniversary of the Commencement Date.
6.	Quality Management Plan	<p>The Quality Management Plan must:</p> <ul style="list-style-type: none"> a) identify the steps taken by the Provider to ensure that the Services are delivered to a high quality; b) specify details of any internal or external audit (that has either been undertaken or is planned) of the Services; c) describe the Provider's approach for reviewing the Services, including the frequency of such reviews; and d) describe how the plan complies with the Service Requirements and the privacy and data security obligations under the Head Agreement. 	Two A4 pages	<p>On:</p> <ul style="list-style-type: none"> a) the Commencement Date; and b) each anniversary date of the Commencement Date.
7.	Service Issues and Complaints Register	<p>The Service Issues and Complaints Register must at a minimum include:</p> <ul style="list-style-type: none"> a) details of any service issues and complaints identified by any Employee, or Agency or the 	None.	<p>Promptly (or otherwise within no later than 3 Business Days) after the Provider has identified and raised a new issue or complaint in the Service Issues and Complaints Register.</p>

Item	Document name	Content requirements	Approximate length	Due date for delivery to the Lead Agency
		<p>Lead Agency (including, its respective Personnel);</p> <p>b) the details of any identified service issue or complaint (including the date, time, and location of the underlying incident);</p> <p>c) the steps taken by the Provider to address or manage the identified service issue or complaint;</p> <p>d) any proposed actions adopted by the Provider to address the identified service issue or complaint; and</p> <p>e) the status of any proposed actions to address the identified issue or complaint.</p>		
8.	Transition-out Plan	<p>The Transition-out Plan must at a minimum, set out the following information:</p> <p>a) details of all of the activities and tasks that are necessary, desirable or reasonably requested by the Lead Agency or an Agency to ensure that Transition-out takes place in a timely and orderly manner;</p> <p>b) approach and process to delivering Contract Material and Agency Material;</p> <p>c) approach and arrangements to working with the Lead Agency, Agencies and/or incoming service providers to ensure the transfer of knowledge, skills and materials relating to delivery of the Services;</p> <p>d) the timeframes during which the Provider will perform the Transition-out Services; and</p> <p>e) details all resources, Personnel and subcontracts used to perform the Provider's obligations under the Transition-out Plan.</p>	Ten A4 pages	<p>On:</p> <p>a) the Commencement Date; and</p> <p>b) each anniversary of the Commencement Date.</p>

Schedule 3 – Work Order

1. Overview

- (a) This document is a Work Order pursuant to this Head Agreement for the provision of occupational rehabilitation and associated medical services (**Head Agreement**) entered into between **Comcare Australia** (ABN 41 640 788 304) (**the Lead Agency**) and **[insert Provider name and ABN]** (**Provider**).
- (b) Once executed by the parties below in accordance with clause 8.1 of the Head Agreement, this Work Order will form a Contract between the parties to provide the Services specified in this Work Order. The terms and conditions of a Contract are specified in clause 8.2 of the Head Agreement.
- (c) In this Work Order, unless the context otherwise requires:
- (i) terms used have the meaning given in Schedule 1 to this Head Agreement; and
 - (ii) clause and provision references in the "Reference" column in the tables below are references to the Head Agreement unless otherwise stated.

Item No.	Description	Reference	Details	
PART A: WORK ORDER KEY DETAILS				
1.	Parties	N/A	[Insert Agency name and ABN] (Agency) [Insert Provider name and ABN] (Provider)	
2.	Work Order number	N/A	[Insert]	
3.	Contract Commencement Date	Clause 8.4(a)	[Insert]	
4.	Initial Contract Term	Clause 8.4(a) and Schedule 1 (Glossary)	[Insert]	
5.	Contract extension options	Clause 8.4(b)	[Insert, if applicable]	
6.	Agency Representative	Clause 18.2(a)	Name and title	[Insert name and title]
			Address	[Insert address]
			Email	[Insert email]
			Telephone	[Insert telephone]

Item No.	Description	Reference	Details	
7.	Provider Representative	Clause 18.2(b)	Name and title	<i>[Insert name and title]</i>
			Address	<i>[Insert address]</i>
			Email	<i>[Insert email]</i>
			Telephone	<i>[Insert telephone]</i>
PART B: PROVISION OF SERVICES				
8.	Services to be provided	Clause 10	<i>[Insert description of the Services, including any requirements additional to those set out in the Statement of Requirements.]</i>	
9.	Sites	Clause 10.4	<i>[Insert the location of the provision of Services.]</i>	
10.	Documentation	Clause 13	<i>[Specify any plans, reports and other documents required to be developed by the Provider as part of providing the Services and timeframe for provision of such plans, reports and other documents]</i>	
11.	Agency Policies and Procedures	Clause 13.1(c)(iii)	<i>[Insert details of the applicable policies with which the Provider must comply]</i>	
PART C: PERSONNEL				
12.	Key Provider Personnel	Clause 13.4	<i>[Insert]</i>	
PART D: GOVERNANCE AND MANAGEMENT				
13.	Contract management	Clause 19	Requirements for meetings	<i>[Insert any requirements additional to those set out in the Statement of Requirements]</i>
			Timeframe / location for meetings	<i>[Insert]</i>
	Documentation (including reports and plans)	Clause 14.1(c) and 19	Documentation requirements	<i>[Insert any requirements additional to those set out in the</i>

Item No.	Description	Reference	Details												
			<table border="1"> <tr> <td></td> <td><i>Statement of Requirements</i></td> </tr> <tr> <td>Timeframe for provision of Documentation</td> <td><i>[Insert. If the default requirements in the Statement of Requirements apply, insert "default applies"]</i></td> </tr> </table>		<i>Statement of Requirements</i>	Timeframe for provision of Documentation	<i>[Insert. If the default requirements in the Statement of Requirements apply, insert "default applies"]</i>								
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PART E: FEES															
14.	Fees	Clause 23.1	<i>[Insert the Fees payable, which must be calculated in accordance with Schedule 4 (Fee Methodology).]</i>												
PART F: RISK MANAGEMENT															
15.	Limitation of liability - cap	Clause 26.1(c)	<i>[Specify the limitation of liability cap]</i>												
16.	Insurance	Clause 28.2	<i>[Specify any insurance coverage in addition to the insurance specified in clause 28.1 and Item 9 of the Head Agreement Details.]</i>												
PART G: COMPLIANCE															
17.	Confidential Information	Clause 30.6(b)	<p>Agency</p> <table border="1"> <thead> <tr> <th>Item</th> <th>Period of confidentiality</th> </tr> </thead> <tbody> <tr> <td><i>[Insert]</i></td> <td><i>[Insert]</i></td> </tr> <tr> <td></td> <td></td> </tr> </tbody> </table> <p>Provider</p> <table border="1"> <thead> <tr> <th>Item</th> <th>Period of confidentiality</th> </tr> </thead> <tbody> <tr> <td><i>[Insert]</i></td> <td><i>[Insert]</i></td> </tr> <tr> <td></td> <td></td> </tr> </tbody> </table>	Item	Period of confidentiality	<i>[Insert]</i>	<i>[Insert]</i>			Item	Period of confidentiality	<i>[Insert]</i>	<i>[Insert]</i>		
Item	Period of confidentiality														
<i>[Insert]</i>	<i>[Insert]</i>														
Item	Period of confidentiality														
<i>[Insert]</i>	<i>[Insert]</i>														
18.	Security checks	Clause 40.3(b)	<i>[insert details of security clearances required to be held by Provider Personnel]</i>												

Item No.	Description	Reference	Details		
PART H: NOTICES					
19.	Notices to Agency - Agency Representative	Clause 52.1(b)	Attention	<i>[Insert name]</i>	
			Address	<i>[Insert address]</i>	
			Email	<i>[Insert email]</i>	
			Telephone	<i>[Insert telephone]</i>	
20.	Notices to Provider - Provider Representative				
			Attention	<i>[Insert name]</i>	
			Address	<i>[Insert address]</i>	
			Email	<i>[Insert email]</i>	
		Telephone	<i>[Insert telephone]</i>		

Executed as a **contract**.

Executed for and on behalf of [**insert Agency name and ABN**] by its authorised signatory in the presence of:

Signature of witness

Full name of witness

Date

Signature of authorised signatory

Full name of authorised signatory

Executed by [**insert name of Provider**] ([**insert ABN**]) in accordance with section 127(1) of the *Corporations Act 2001* (Cth):

Signature of director

Full name of director who states that they are a director of [**insert name of Provider**]

Date

Signature of director/company secretary [*delete position as appropriate*]

Full name of director/company secretary [*delete position as appropriate*] who states that they are a company secretary/director [*delete position as appropriate*] of [**insert name of Provider**]

Date

Schedule 4 – Fee Methodology

1. Fees (clause 23)

[The preferred Tenderer's maximum rates for the applicable Service categories will be set out here or in an attachment.]

2. Adjustments

- (a) The Fees specified in this Schedule 4 (Fee Methodology) may be reviewed annually on the anniversary of the Commencement Date. The Provider may request a price adjustment to take effect, no earlier than the anniversary of the Commencement Date each year during the Head Agreement Period.
- (b) The annual price review and any price adjustment is not an automatic process. The Provider may (by Notice to the Lead Agency) request an increase to the Fees by applying to the Lead Agency requesting a price adjustment to take effect. The Provider must provide supporting evidence of any relevant Fee increases sought. The Lead Agency will consider all price review requests and provide a written response to the Provider.
- (c) Where a price adjustment has been approved in writing by the Lead Agency, those new Fees will apply for Contracts formed after the approval of the price adjustment and will not apply retrospectively to existing Contracts.
- (d) Any price adjustment must not exceed the Consumer Price Index (CPI) weighted average of eight capital cities, March Quarter to March Quarter percentage change published by the Australian Bureau of Statistics (ABS), catalogue number 6401.0.
- (e) The price adjustment formula to be used is: $AP = CAP (1+X)$ where:
 - AP = adjusted price
 - CAP = current agreed price
 - X = percentage increase
- (f) If the Lead Agency extends the Head Agreement Period under clause 3.2 of the Head Agreement, the Fees that applied immediately before the commencement of that Extension Period will apply for Work Orders formed during that Extension Period, unless a price adjustment request has been submitted and approved by the Lead Agency.

3. Travel and accommodation costs

- (a) The parties acknowledge that reasonable travel and accommodation expenses are likely to be required in the delivery of the Services in some regional and remote locations and the Universal Operations Manual will provide guidance as to what is considered reasonable travel and accommodation expenses.
- (b) Reasonable travel and accommodation expenses will be approved by an Agency and form part of the Fee payable by the Agency (or Comcare in relation to compensation services under the SRC Act) to the Provider. The Agency will not pay for any incidental travel costs, such as meals.
- (c) An Agency (or Comcare in relation to compensation services under the SRC Act) will not pay any travel and accommodation expenses incurred by the Provider in

providing the Services in excess of the travel and accommodation expenses that form part of the approved Fee.

- (d) In determining the reasonable travel and accommodation expenses that may be incurred by the Provider in providing the Services, the Provider must apply the following principles:
- (i) travel must be organised to ensure maximum value to the Services;
 - (ii) travel should be undertaken when it is the most effective way to achieve the Services outcomes;
 - (iii) alternative means of conducting business other than travel must be considered;
 - (iv) travel expenditure should always be economical, efficient, ethical, honest and defensible; and
 - (v) travel should take into account personal circumstances, including family responsibilities, safety, security, disability and other relevant factors that may affect the Provider's Personnel's ability to travel.

4. Cancellations or no show fees

The parties acknowledge that reasonable cancellation and no show fees may be payable by an Agency if the Provider provides prior notice of such fees being payable in specific circumstances, in accordance with the Provider's business practices that apply to all of the Provider's customers.

5. Invoicing requirements (clause 23.5)

- (a) If the invoice is for a taxable supply, the invoice must meet the requirements of a tax invoice as set out in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and the *A New Tax System (Goods and Services Tax) Regulations 2019* (Cth).
- (b) Unless the Fee is for compensation services under the SRC Act, the Provider must issue a single consolidated electronic monthly invoice covering all Services provided in the preceding month to an Agency within five Business Days after the end of the month or as advised by the Agency.
- (c) For Fees for compensation services under the SRC Act, the Provider must issue individual case invoices covering all authorised compensation services incurred in the preceding month to the Lead Agency (general.enquiries@comcare.gov.au) and an Agency within five Business Days after the end of the month.
- (d) The invoice must be in a form approved by an Agency, which includes the following information:
 - (i) the Panel standing offer number (SON);
 - (ii) the Provider's Panel identifier;
 - (iii) the purchase order number;
 - (iv) the amount of Fees;
 - (v) the information required by the Agency (or Comcare for compensation services under the SRC Act) to verify the calculation of the Fees;

- (vi) the name of the Agency Representative; and
 - (vii) such other information as the Agency requires.
- (e) The Provider must ensure that:
 - (i) there is a separate invoice for each purchase order; and
 - (ii) only one invoice is included per attachment.

Schedule 5 – Confidentiality and privacy undertaking

Parties **[insert name of Agency and ABN (if applicable)]** of **[insert]** (Agency)
[insert name of Confidant and ABN (if applicable)] of **[insert]** (Confidant, I, me and my)

Background

- A. The Agency requires the provision of certain services.
- B. **[insert name]** (Provider) has agreed to supply services to the Agency under a contract dated **[insert date]** (Contract).
- C. The Confidant provides the undertakings set out below in respect of work to be performed, and information to be acquired, directly or indirectly in connection with the Contract.

Agreed terms

1. Definitions

Confidential Information means information that:

- (a) is by its nature confidential;
- (b) is designated by the Agency as confidential and is described in the Contract;
- (c) the Provider or Confidant knows or ought to know is confidential; or
- (d) is personal information under the *Privacy Act 1988* (Cth),

but does not include information that:

- (e) is or becomes public knowledge otherwise than by breach of this deed, the *Privacy Act 1988* (Cth) or any other confidentiality obligation;
- (f) is in the possession of the receiving party without restriction in relation to disclosure before the date of receipt; or
- (g) has been independently developed or acquired by me without breach of any obligation of confidence.

Personal Information has the meaning it has in section 6 of the *Privacy Act 1988* (Cth).

2. Access

I understand that in the course of performing duties under the Contract, I may have access to Confidential Information.

3. Non-disclosure

- (a) I will treat as secret and confidential all Confidential Information to which I have access, or which is disclosed to me.

- (b) If the Agency grants its consent for me to disclose Confidential Information, it may impose conditions on that consent. In particular, the Agency may require that I obtain the execution of a deed in these terms by the person to whom I propose to disclose the Confidential Information.
- (c) My obligations under this deed will not be taken to have been breached where I am legally required to disclose the Confidential Information.

4. Restriction on use

- (a) I will only use the Confidential Information for the purpose of my dealings with the Agency (whether directly or indirectly).
- (b) I will:
 - (i) not copy or reproduce the Confidential Information without the approval of the Agency;
 - (ii) not allow any other person outside the Agency access to the Confidential Information; and
 - (iii) take all necessary precautions to prevent unauthorised access to or copying of the Confidential Information in my control.

5. Powers of the Agency

- (a) Immediately on request by the Agency, I must deliver to the Agency all documents in my possession or control containing Confidential Information.
- (b) If at the time of such a request I am aware that documents containing Confidential Information are beyond my possession or control, then I must provide full details of where the documents containing the Confidential Information are, and the identity of the person who has control of them.

6. Privacy Act obligations

I agree to abide by the provisions of the *Privacy Act 1988* (Cth), including the Australian Privacy Principles set out in that Act, in respect of both Personal Information and Confidential Information, whether or not I am legally bound to comply with that Act and as if the definition of personal information in that Act includes Confidential Information.

7. Survival

This deed will survive the termination or expiry of any contract between the Provider and me providing for the performance of services or the provision of goods by me (whether directly or indirectly).

8. Applicable law

This deed will be governed by, and construed in all respects in accordance with, the law of the Australian Capital Territory and I agree to submit to the applicable jurisdiction of the Courts of the Australian Capital Territory in respect of all matters arising under, or in relation to, this deed.

Executed as a deed poll.

Signed, sealed and delivered by **[Name of confidant]** in the presence of

Signature of witness

Signature of confidant

Name of witness (print)

Date

Signing page

Executed as a **deed**.

Signed sealed and delivered for and on behalf of **Comcare Australia (ABN 41 640 788 304)** by its authorised signatory in the presence of:

Signature of witness

Signature of authorised signatory

Full name of witness

Full name of authorised signatory

Date

Executed by [*insert name of Provider*] (*insert ABN*) in accordance with section 127(1) of the *Corporations Act 2001* (Cth):

Signature of director

Signature of director/company secretary [*delete position as appropriate*]

Full name of director who states that they are a director of [*insert name of Provider*]

Full name of director/company secretary [*delete position as appropriate*] who states that they are a company secretary/director [*delete position as appropriate*] of [*insert name of Provider*]

Date

Date