

## GENERAL CONDITIONS PART

### 1. Master Contract

#### 1.1. Our Contract governs all requests for our Workforce Services

This Contract comprising its various parts and schedules is a master contract. It sets out the Parties' agreements about the terms on which we supply, and you acquire, our Workforce Services. You do not have to accept our terms, and you should feel free to negotiate them with us. However, once you have accepted them, they will govern all future requests for our Workforce Services unless they have been varied in writing, or this Contract has been validly terminated.

#### 1.2. Our Contract covers the Parties, their permitted successors and assigns

This Contract binds you, us, and our respective permitted successors and assigns.

#### 1.3. The General Conditions Part applies to the supply and acquisition of our Workforce Services

The General Conditions Part sets out terms that apply to the supply of our Workforce Services.

#### 1.4. The On-Hire Services Part applies to the supply and acquisition of our On-Hire Services

The On-Hire Part sets out terms that apply to the supply of our On-Hire Services.

#### 1.5. The Placement Services Part applies to the supply and acquisition of our Placement Services

The Placement Services Part sets out terms that apply to the supply of our Placement Services.

#### 1.6. The Fees Schedule sets out how our fees and charges are calculated

The Fees Schedule sets out how our fees and charges are calculated.

#### 1.7. The Business Schedule contains important terms on which we both agree to do business

The Business Schedule contains important terms on which we both agree to do business.

#### 1.8. The Definitions & Interpretation Schedule sets out agreed definitions and rules for interpretation

The Definitions & Interpretation Schedule sets out Important definitions and rules for interpretation.

#### 1.9. A Synopsis is a summary guide to our Long Form Master Services Contract

A Synopsis is our summary guide to this Long Form Master Workforce Services Contract ("Long Form Contract"). Clause numbers of the Synopsis follow those in our Long Form Contract. The Synopsis does not replace our Long Form Contract, which you should read carefully and about which you should obtain your own legal advice.

### 2. Acceptance

#### 2.1. Our Contract can be accepted orally, in writing, or by requesting our Workforce Services

This Contract is accepted and becomes effective when you:

- a. communicate your acceptance of it, or of its Synopsis, to us, either orally or in writing; or
- b. request our Workforce Services as provided in clause 4, after you have been provided with a copy of it, or of its Synopsis.

### 3. Acknowledgements & Co-operation

#### 3.1. The Parties agree our Contract is reasonable to protect their interests in supplying or acquiring our Workforce Services

The Parties acknowledge and agree:

- a. that, as a Workforce Services provider and labour market intermediary, we invest significant amounts of effort, money, time and intellectual resources in sourcing and establishing relationships with Candidates, developing critical understandings of clients' and Candidates' needs, and preparing Candidates for presentation to clients ("our Candidate Connections"); and
- b. our Candidate Connections contribute to our goodwill and support significant business capital, which is of value to us and which we are entitled to protect by lawful means; and
- c. the provisions of this Contract are reasonable in the protection of both Parties' interests in supplying and acquiring our Workforce Services.

### 3.2. Candidate Presentation Is ongoing

The Parties acknowledge and agree that presentation of one of our Candidates commences, when we first forward to you any personal information about our Candidate (whether on an identified, anonymous, or pseudonymous basis) and continues each time our Candidate performs work on an Assignment with you, or we provide personal information about our Candidate, or arrange for our Candidate to provide personal information to you, or to attend an interview for a Position with you, or when we assist in negotiations with the Candidate about a Placement.

**Examples:** We present a Candidate when we:

- send the Candidate's resume to you, even if we have not disclosed the name of the Candidate; or
- confirm arrangements with you for our Candidate to attend an interview in person or by telephone; or
- forward to you the results of any reference check on the Candidate that you require us to carry out; or
- communicate our Candidate's feedback following an interview with you; or
- communicate a Candidate's response to an offer of a Placement; or
- arrange for our Candidate to perform work for you.

### 3.3. The Parties agree to co-operate

The Parties agree:

- a. to co-operate by doing all things reasonably necessary to establish and maintain their business relationship for the supply and acquisition of our Workforce Services; and
- b. to avoid doing anything that would unreasonably impede the other party in the performance of, any legal or equitable obligation or professional responsibility; and
- c. to be responsive and communicative toward each other; and
- d. in the event of disagreement, to try to resolve the disagreement amicably and in the manner set out at clause 11; and
- e. for the purposes of any electronic transactions legislation governing their dealings, to information being exchanged between them by way of electronic communication.

## 4. Service Requests & Authority to Initiate Candidate Presentation

### 4.1. We may require written confirmation of your Services Requests

When you request our Workforce Services (a "**Services Request**"), we may require you to confirm your request to us:

- a. in writing; and
- b. stating the basis on which our Workforce Services are requested and are to be paid;

**Examples:** If On-Hire Services, whether on an hourly, daily or piece rates basis. If Placement Services, whether on a contingent or retained basis.

- c. stating whether our Workforce Services are requested on an exclusive or open basis; and
- d. by signing and returning a Workforce Services Brief, if we require one.

### 4.2. Parties may nominate representatives to co-ordinate the supply and acquisition of our Workforce Services

- a. The Parties may nominate a representative to co-ordinate the supply and acquisition of our Workforce Services.
- b. The Parties warrant that any nominated representative (or substitute) whom they appoint is a fit and proper person to act as their nominated representative.
- c. Either Party may decline to coordinate the supply or acquisition of our Workforces through the other Party's nominated representative if the declining Party reasonably believe that the other Party's nominated representative is not a fit and proper person to perform that role.

### 4.3. We may decline your Services Requests

We can decline or seek clarification of a Services Request for any reason that we think is proper.

**Example:** We might decline a request if it required us to act in a manner that was unlawful or might cause us to breach any code of professional conduct that applies to us. We might seek clarification of a request if the inherent requirements of the job (or the ability of the workplace to make reasonable adjustments to accommodate for disability) were not sufficiently clear.

### 4.4. You give us permission to present Candidates for Positions

In accepting this Contract, you give us permission to present our Candidates either:

- a. in response to your Services Requests; or
- b. on our own initiative (“Agency-Initiated Presentations”).

## **5. Our General Responsibilities**

### **5.1. Our general responsibilities are additional to non-excluded obligations**

Our responsibilities set out in this clause are additional to any other non-excluded legal responsibilities that we might owe.

**Example:** Our responsibilities are additional to any legal obligations arising under employment agency legislation, labour hire licensing or consumer protection legislation that may not be excluded by this Contract.

### **5.2. We will provide our Workforce Services as agreed**

We will provide our Workforce Services in accordance with this Part and any relevant On-Hire Services or Placement Services Part of this Contract together with its Schedules and any agreed Workforce Services Brief.

### **5.3. We will obtain our Candidates’ permission to present them to you**

We will not present a Candidate for a Position with you unless we have permission from the Candidate to present the Candidate for the Position. To avoid doubt, permission can be given by the Candidate for a class or type of Position and can be implied to the extent permitted by law.

**Example:** Our Candidate may give us broad-ranging permission to present the Candidate for nursing roles of a particular type or classification; or for a role falling within a particular specialisation as and when such roles become available, or imminently available.

**Example:** Private Employment Agency laws might require that a Candidate’s permission for us to present them for positions must be in writing.

### **5.4. We will supply extra services that are expressly agreed**

We will be responsible for supplying additional services, subject to reaching express written agreement with you about their scope, pricing, service level, and timeframes for delivery.

**Example:** We would be responsible for arranging pre-employment testing of Candidates provided that we could reach agreement with you about the scope, pricing, service level and timing of the testing.

### **5.5. We will be responsible for meeting agreed service levels**

If we enter into a Service Level Agreement with you, we will be responsible for meeting the agreed levels of service that apply to us.

### **5.6. We will be responsible for obtaining and maintaining agreed certifications or industry association memberships**

If it is a condition of the supply of our Workforce Services that we hold an agreed level of certification or industry association membership, we will be responsible for obtaining and maintaining that certification or membership.

**Example:** If it is a condition of the supply of our Workforce Services that we have RCSA StaffSure accreditation, we would be responsible for obtaining and maintaining that certification.

## **6. Your General Responsibilities**

### **6.1. You must conduct your business lawfully**

You must conduct your business lawfully. If we have a reasonable belief that you are not doing so, we can suspend or withdraw our services.

### **6.2. You must ensure Candidates whom you employ have the legal right to work**

You will be responsible for ensuring that any of our Candidates, who is employed by you, has the legal right to work in any Position that you offer; and for obtaining all necessary work permits and authorisations.

### **6.3. You will not require us to act in breach of our licence conditions, certification or professional conduct responsibilities**

You will not require us to act in any manner that may involve us in a breach of our licence conditions, certification or professional conduct responsibilities.

#### **6.4. You will not charge our Candidates certain fees or charges for the jobs they perform (“Employment Premiums”)**

You agree that you will not directly or indirectly charge our Candidates any Employment Premium for or in connection with the jobs they perform.

**Examples:** You will not try to recover our fees from our Candidates. You will not charge our Candidates any fee as a condition of providing them with work. You will not charge any fee prohibited by law -e.g. employment premiums prohibited under s. 931 of Queensland’s Industrial Relations Act 2016.

**Note:** The term “Employment Premium” is defined in the Definitions & Interpretation Schedule consistently with the definitions of “Recruitment Fees” and “Related Costs” proposed by the International Labor Organization (ILO) Tripartite Meeting of Experts on Defining Recruitment Fees and Related Costs (Geneva, 14-16 November 2018) and includes fees and charges prohibited by Australian law or by New Zealand Law (e.g. under s.12A of the *Wages Protection Act 1983* (NZ)).

#### **6.5. You must provide accurate information**

You warrant the accuracy of all information which you provide to us, or to our Candidates, about our Candidates’ employment, or potential employment, is accurate; and that you will be responsible for ensuring that it is not misleading or likely to mislead.

#### **6.6. You share responsibility for satisfying yourself that our Candidates meet the requirements of their work**

You agree to share responsibility for satisfying yourself that any of our Candidates, who performs work for you:

- a. has the qualifications, training, and experience required to perform the work; and
- b. meets any work health & safety requirement imposed by law to perform the work; and
- c. meets any other inherent requirements of their Position including, genuine occupational requirements, professional or personal suitability requirements, and the conditions of any relevant licence, permit, or registration.

#### **6.7. You must preserve the privacy of our Candidates’ personal information**

- a. You agree to preserve the privacy of personal information concerning any of our Candidates, whose personal information has been provided to you or accessed by you, to a standard not less than that prescribed by any Privacy Law that applies to your handling, control or processing of the information.
- b. If you would be an overseas recipient of personal information concerning any of our Candidates, or if you are a controller or processor of personal information of any of our Candidates who is a data subject under European or other foreign privacy protections, we may decline to provide our Candidates’ personal information to you unless you first agree to additional contractual provisions reasonably required in accordance with those protections.

**Example:** If you (or your parent entity) are a U.S. recipient of personal information of an Australian or New Zealand Candidate; or if you are an Australian or New Zealand controller of personal information of a U.K or European Candidate, we may withhold our Candidate’s personal information from disclosure to you until contractual protections or suitable consents are in place.

#### **6.8. You must have due regard for our Candidates’ obligations owed to their previous employers**

You will be responsible for ensuring, within the scope of your ability to control or direct our Candidate, that any Candidate who performs work for you meets lawful obligations owed to the Candidate’s previous employer.

**Example:** a lawful obligation of confidentiality; a post-employment restraint of trade or non-solicitation to the extent to which it is valid and enforceable.

#### **6.9. You must notify us of our Candidate’s acceptance of an offer of employment with you**

You agree to notify us promptly on becoming aware that one of our Candidates has accepted an offer of employment with you within any presentation period relating to that Candidate, and to provide us with all necessary details.

### **7. Fees, Charges & Invoices**

#### **7.1. You must pay our fees and charges when they are due**

You agree to pay our fees and charges set out in the Fees Schedule, without deduction or set-off, as and when they fall due for payment.

#### **7.2. You must pay advertising and other expenses you have authorised**

You must pay for any advertising or other expenses that you authorise us to incur. We will provide an estimate of our charges (if any) when we receive the Services Request or Recruitment Brief from you. Our estimate may include a handling margin up to the percentage set out in the Fees Schedule.

### **7.3. We will provide invoices**

- a. We will invoice you in the manner set out at item 3.1 of the Business Schedule.
- b. Our invoices will include Goods and Services Tax, if applicable.
- c. You must pay our invoices in the manner set out at item 3.2 of the Business Schedule.

### **7.4. We may vary our fees and charges on notice sufficient to give you an opportunity to negotiate them with us or to terminate this Contract**

- a. We may give you written notice of the variation of our fees and charges from time to time.

**Example:** We might give you notice of an increase in our fees if the cost of supplying them were to increase because of increases in underlying labour or regulatory costs, or because of changes in market circumstances – e.g. introduction of new forms of paid pandemic leave; or the introduction of staff allocation restrictions at particular work sites.

- b. If we give notice of a variation:

- i. it will not take effect until a period comprising the termination notice period under clause 9.1 plus 14 days have elapsed from the day on which we give notice;

**Example:** if the termination period is 14 days, the period before the variation takes effect would be 28 days (14 days + 14 days = 28 days).

- ii. you should feel free to negotiate our fees with us, or alternatively a variation in the scope of services we are providing to you.

- c. The Parties acknowledge and agree that the period in subparagraph (b)(i) above provides reasonable time for them to consider their options, obtain advice, conduct negotiations and terminate this Contract, without penalty, should they wish to do so.

### **7.5. Our fees and charges are stated on a GST exclusive basis**

- a. The Consideration payable under this Contract in relation to any supply is stated exclusive of GST (but inclusive of all other taxes that may be payable by us in respect of the provision of goods or services supplied under this Master Contract).
- b. To the extent that any supply constitutes a Taxable Supply, the amount payable will be increased by the applicable amount of GST (GST Amount).
- c. Subject to our providing you with a tax invoice, any GST Amount must be paid by you at the same time and in the same manner as paying the Consideration in relation to the supply.
- d. The GST definitions and interpretations apply to this sub-clause.

## **8. Exclusion of Certain Liabilities**

### **8.1. You acknowledge and agree that you bear non-exclusive responsibility for the work our Candidates perform for you**

You acknowledge and agree that you bear non-exclusive responsibility for the work that our Candidates perform under your control, supervision and direction.

### **8.2. We make no representations that our Candidates will achieve performance levels etc.**

Except as may be expressly agreed in writing and recorded in a Workforce Services Brief, we make no representation and give no guarantee that our Candidates will achieve a certain level of performance, achieve a certain outcome, solve a particular problem, or attain a specific goal.

### **8.3. We exclude liability to you and require you to indemnify us for damage etc. caused by our Candidates (including by their negligence) except to the extent to which we have contributed to it. We limit our liability arising under applicable statutory consumer guarantees**

- a. Subject to sub-paragraphs (b) and (c), we will not be liable to you for, and you will indemnify us against, any liability for damage, loss or injury of whatsoever nature or kind, however caused by our Candidates (including by their negligence) whilst they are working under your supervision, direction or instruction;

- b. Sub-paragraph (a) does not reduce our liability, directly incurred, to the extent to which we may have contributed to any such damage, loss or injury; and
- c. Nothing in this Contract excludes, restricts or modifies the application of any statutory consumer guarantee in respect of our Workforce Services; the exercise of a right conferred by such a guarantee; or our liability for failure to comply with a statutory consumer guarantee - other than to the extent of limiting our liability in the case of a failure to comply with regard to the supply of our Workforce Services (other than services of a kind ordinarily acquired for personal, domestic or household use or consumption) to supplying or paying the cost of having the Workforce Services supplied again.

#### **8.4. Exclusions of liability and indemnities continue after termination of the Contract**

The provisions of this clause 8 continue to bind the parties after this Contract ends.

### **9. Termination**

#### **9.1. Either Party can terminate this Contract “for convenience” by written notice**

Either Party can terminate this Contract by providing written notice of the length set out at item 4 of the Business Schedule and without having to ascribe any cause

#### **9.2. Either Party can terminate this Contract for a serious breach which cannot be remedied, or which remains unremedied after notice**

- a. Either Party can terminate this Contract immediately:
  - i. for serious breach by the other which cannot be remedied; or,
  - ii. for serious breach capable of remedy which remains unremedied after written notice has been given by the Party who is not in breach specifying the breach, the remedial action required, and requiring it to be remedied within such reasonable time as may be stated in the notice.
- b. Without limiting its meaning, a “**serious breach**” for the purposes of this clause includes a breach of clause 3 (Acknowledgements & Co-operation), clause 5 (Our Responsibilities) or clause 6 (Your Responsibilities), a breach of Work Health & Safety responsibilities, and a reasonable belief that the other Party is involved in Exploitation.

**Note:** “Exploitation” is defined in the Definitions & Interpretation Schedule. It includes involvement in the breach of “vulnerable worker protections” provided by the Fair Work Act 2009).

#### **9.3. Either Party can terminate this Contract for an Insolvency Event**

Either Party may immediately terminate this Contract by written notice to the other Party if the other Party becomes the subject of an Insolvency Event.

### **10. Confidentiality**

#### **10.1. Candidate information is provided confidentially & solely for the supply, acquisition, and use of our Workforce Services**

All Candidate information that we provide to you (including the fact that our Candidate may be looking for work) is supplied by us confidentially and solely for the supply, acquisition and use of our Workforce Services. You agree not to use or disclose it for any other purpose without our consent, even if it is otherwise in the public domain.

#### **10.2. We can choose not to disclose the results of our pre-placement investigations or evaluations of our Candidates**

- a. Pre-placement investigations and evaluations of our Candidates, unless otherwise agreed, are performed for our sole and exclusive benefit.
- b. Unless identified under sub-clause 5.4 as an agreed extra, we can choose not to disclose to you the results of any pre-placement investigations or evaluations of our Candidates.

### **11. Dispute Resolution**

#### **11.1. The Parties will try to resolve disputes in good faith & in accordance with the RCSA Code & Professional Conduct Grievance Intervention Guidelines**

Where it is practicable to do so, the Parties will try to resolve disputes arising out of this Contract in good faith and in accordance with the RCSA Code and its Professional Conduct Grievance Intervention Guidelines as amended from time to time.

## **12. Notices**

### **12.1. Notices must be given in writing**

Notices must be given in writing using the contact details for the parties set out in items 1 or 2 of the Business Schedule.

## **13. Assignment & sub-contracting**

### **13.1. The Parties may not assign or sub-contract their responsibilities under this Contract without consent**

Neither party may assign this Contract, or sub-contract any of its responsibilities arising under it, without the written consent of the other, which is not to be unreasonably withheld.

## **14. Events Beyond Control**

### **14.1. Parties may be excused for failure to perform due to events beyond their reasonable control**

- a. A Party may be excused for failure to perform its obligations under this Contract due to events beyond its reasonable control provided that it has not caused the event I.
- b. Without limitation to events that may be beyond the reasonable control of a Party, such events may include: strikes, insurrections, riots, and wars, floods, bushfires, earthquakes and other natural events, pandemic, border disclosure, declared state of emergency order or direction.
- c. If either Party asserts an event beyond that Party's control as an excuse for failure to perform its responsibilities, then the asserting Party must prove:
  - i. that it took reasonable steps to minimise delay or damage caused by foreseeable events;
  - ii. that it substantially fulfilled all obligations not sought to be excused; and
  - iii. that the other Party was notified in a timely manner of the likelihood or actual occurrence of the event.

## **15. Waiver**

### **15.1. Indulgences do not amount to waiver**

If either Party (the Grantor) does not act to enforce or require strict compliance with the other Party's responsibilities under this Contract, or if the Grantor grants to the other any extension or indulgence in the performance of that other Party's responsibilities, the Grantor may still exercise all its rights as though they were fully available to it.

## **16. Severance**

### **16.1. Terms can be severed**

If any term of this Contract is held to be invalid in any way, or unenforceable, it will be severed, and the remaining terms will not be affected or impaired; but will be construed so as most nearly to give effect to the intent of the Parties at the time it was originally agreed.

## **17. Jurisdiction**

### **17.1. The Parties choose the law and jurisdiction that governs the Contract**

- a. This Contract is governed by and will take effect in accordance with the laws in force in the jurisdiction set out at item 5 of the Business Schedule.
- b. The Parties agree to submit to the non-exclusive jurisdiction of the courts and tribunals of the jurisdiction set out at item 5 of the Business Schedule.

## **18. Relationship**

### **18.1. The Parties' relationship is that of independent supplier and acquirer of our Workforce Services**

- a. The Parties' relationship is that of independent supplier and acquirer of our Workforce Services.
- b. Nothing in this Contract shall create any relationship of partnership or joint venture between the Parties.

- c. Neither Party has authority to bind the other, and neither Party is the principal or agent of the other, unless expressly agreed in writing and included in a Workforce Services Brief.

**Example:** You may agree to appoint us, and we may agree to act, as your agent for the purpose of making, or receiving acceptance of, your offer of employment to our Candidate. The appointment and our agreement to act would need to be in writing.

## **19. Entire Agreement**

### **19.1. This Contract, including its various parts, schedules & any relevant Service Level Agreement or Workforce Services Brief constitutes our entire agreement**

- a. This Contract, together with its various parts, schedules and any relevant Service Level Agreement or Workforce Services Brief to which the Parties may agree should govern the supply and acquisition of our Workforce Services represents the entire agreement between the Parties in relation to its subject matter. All implied and statutory terms, to the extent to which they are inconsistent with these terms, are excluded to the fullest extent permitted by law.
- b. By accepting the terms set out in this document, or in our Synopsis of it, you acknowledge that neither we, nor anyone acting on our behalf, has made any warranty or representation to you in relation to the matters covered by this agreement which is not fully set out in these terms, that you have not relied upon any such warranty or representation, that you have read our Long Form Contract, and that you have understood it.

## **ON-HIRE PART**

The On-Hire Part sets out additional terms that apply to the supply and acquisition of our On-Hire Services.

### **1. Our Additional On-Hire Responsibilities**

#### **1.1. We will source and engage our On-Hire Candidates**

We are responsible for selecting, engaging or appointing the workers whom, we arrange to perform work for you (“our On-Hire Candidates”).

We are not obliged to engage or appoint any worker whom we have not sourced and may decline to do so for any reason we consider proper.

#### **1.2. We will take reasonable steps to ensure our On-Hire Candidates are competent, skilled and qualified for the work they are to perform**

We will take reasonable steps to ensure our On-Hire Candidates are competent, skilled and qualified to undertake the type of work you describe to us in your agreed Services Requests or Recruitment Briefs and that they hold necessary registrations and licences.

#### **1.3. We are responsible for confirming Work Entitlements of our On-Hire Candidates, and making and remitting tax deductions**

We are responsible for confirming the Work Entitlements of our On-Hire Candidates and for making and remitting required tax deductions.

#### **1.4. We will take out and confirm all necessary insurances required by law**

We will take out all necessary insurances required by law to enable us to provide our On-Hire Services, and confirm that our Candidates have taken out necessary insurances where they are required to have them.

**Example:** Workers Compensation insurance; professional indemnity insurance

## **2. Your Additional Responsibilities**

### **2.1. You must provide reasonable access to your workplaces & Information**

Without limiting your general duty of co-operation under the General Conditions Part, sub-clauses 3.3 and 6.5, you will:

- a. allow us, our agents, and our On-Hire Candidates to access your workplaces at which our On-Hire Candidates will be, or are, performing work to enable us:
- i. to assess the safety of those workplaces and conduct any inquiries following an incident; and
  - ii. to provide our On-Hire Services and our On-Hire Candidates to perform the work.



- b. provide us and our On-Hire Candidates with information and assistance reasonably necessary to enable us to provide our On-Hire Services and our On-Hire Candidates to perform their work;
- c. keep us and our On-Hire Candidates reasonably informed about your policies and procedures that are relevant to the provision of our On-Hire Services and the work our On-Hire Candidates perform;
- d. keep us fully informed about all aspects of your use of our On-Hire Services, including providing, in a timely manner, any information which we may reasonably require in order to meet our Reporting Requirements.

**2.2. You must not direct our On-Hire Candidates to work at workplaces we have not agreed**

You must not direct our On-Hired Candidates to perform work at any workplace that we have not agreed.

**2.3. You must not on-hire, second, or lend our On-Hire Candidates without our permission**

You must not on-hire, second, or lend our On-Hire Candidates to any other person or organisation without our express permission.

**2.4. You must inform us of inherent requirements or genuine occupational requirements of the work, and you are responsible for making reasonable adjustments required by anti-discrimination laws**

You must identify and inform us of any inherent or genuine occupational requirements of the work our On-Hire Candidates are to perform. You will be responsible for making all reasonable adjustments that may be required by any applicable anti-discrimination laws.

**2.5. You must properly supervise our On-Hire Candidates whilst they are within your legal responsibility**

You must supervise, instruct or direct our On-Hire Candidates properly at all times whilst they are on-hired to you, including times outside their working hours when they are accommodated, travelling, or engaged in social activities, within the scope of your legal responsibility.

**2.6. You must report adverse conduct or performance issues to us and allow us to manage them**

You must report to us any adverse conduct or performance issues that arise in relation to our On-Hire Candidates so that we can manage any feedback, counselling or disciplinary processes with them directly.

**2.7. You must familiarise yourself with industrial instruments etc under which our On-Hire Candidates perform their work and supervise our On-Hire Candidates in accordance with their provisions**

- a. We will inform you of any applicable award, enterprise agreement, collective employment agreement or other industrial instrument or workplace order that binds us and governs the work which our On-Hire Candidates perform for you.
- b. You must familiarise yourself with their provisions and supervise our On-Hire Candidates in such a manner as to ensure that they receive their proper entitlements including breaks and rest periods.

**2.8. You must ensure that our On-Hire Candidates work within the skill level & classification or description according to which they are provided by us to you**

- a. You must not, without our consent, require our On-Hire Candidates to perform any work beyond the skill level and classification or description pertaining to the work or of a type different to that which we agree they are to perform.
- b. If you require our On-Hire Candidates to perform work above the skill level and classification or description pertaining to the work that we agree they are to perform:
  - i. you must ask us in writing, giving us thorough details of the work and identifying any additional risk connected with it;
  - ii. we may decline your request and supply an alternative On-Hire Candidate instead;
  - iii. we reserve the right to negotiate a higher fee for the supply of our On-Hire Candidate;
  - iv. you must undertake any additional induction and provide any additional plant, equipment, tools, stationery and other property or items (including personal protective equipment) required to enable our On-Hire Candidates to perform their work safely and efficiently.

- c. If you breach this sub-clause, without prejudice to any other remedy we may have (including our right to withhold the supply of our On-Hire Candidates), we may charge you a higher fee commensurate with the work performed and invoice you accordingly.

**2.9. You must provide all Work Equipment at your own expense other than Work Equipment which it is agreed that we, or our On-Hire Candidates, will provide. In default, we or our candidate can provide it and we can charge you accordingly**

- a. You must provide all Work Equipment at your own expense other than Work Equipment which it is agreed that we, or our On-Hire Candidates, will provide.
- b. If you do not supply Work Equipment as provided by paragraph (a) above, without prejudice to any other remedy we may have (including our right to withhold the supply of our On-Hire Candidates) we or our candidate may supply it and we may charge you the reasonable cost together with the handling margin up to the percentage set out in the Fees Schedule.

**2.10. You must submit completed timesheets on time. In default, we can make an estimate of the work performed by our On-Hire Candidates and invoice you accordingly**

- a. You acknowledge that our On-Hire Candidate's work entitlements and our tax invoices are calculated and processed on the basis of timesheet information and other information that we must collect.
- b. The Parties agree that timesheets will be submitted and processed in the timeframes specified in item 3.3 of the Business Schedule.
- c. You must ensure that:
  - i. timesheets are completed by our On-Hire Candidates and then presented to you for approval by the time and day specified in item 3.3 of the Business Schedule; and
  - ii. the supervisor or nominated representative duly appointed by you for each On-Hire Candidate must verify and sign their timesheet for the relevant pay period by the time and day specified in item 3.3 of the Business Schedule.
- d. You agree that a signature on a timesheet or other agreed confirmation by a supervisor or nominated representative duly appointed by you is verification that work was completed by our On-Hire Candidate, times are correct, and that we may submit a tax invoice reflecting the time recorded on the timesheet.
- e. If you fail to provide a verified timesheet at all, or on time, we may make our own estimate of the time worked by our On-Hire Candidate and invoice you accordingly, subject to making any necessary adjustment once the information is verified.

**2.11. Persons whom you appoint to perform any function on your behalf that directly affects our On-Hire Candidates must be fit and proper to act in that role**

You warrant that any person whom you appoint to perform any function on your behalf that directly affects our On-Hire Candidates is fit and proper to act in that role.

**Examples:** Field managers, leading hands, supervisors, trainers, accommodation providers.

**2.12. We may require you to disclose Service Network arrangements that affect our On-Hired Candidates**

- a. We may require you to disclose to us the general nature of all outsourced or delegated arrangements for the management, supervision, direction, instruction, accommodation, transport, or catering of or for our On-Hire Candidates.
- b. Without limiting paragraph (a) above, we may require you to disclose the identity and contact details of suppliers and participants in your Service Networks.

**2.13. We may require you to disclose the identity of suppliers and participants in your tiered supply arrangements or supply chain**

We may require you to disclose to us the identity of suppliers and participants in any tiered supply, or supply chain, arrangements who, directly or indirectly:

- a. receive the benefit of the work which our On-Hire Candidates perform; or
- b. are able to influence the work which our On-Hire Candidates perform or its supervision.

### **3. Insurance**

#### **3.1. Parties must take out and maintain agreed insurances. If you are in default, we can take out the missing insurance and recover the cost of it together with our handling margin.**

- a. The Parties must take out and maintain any insurances which they agree in writing are to be in place as a condition of supplying or acquiring our On-Hire Services in response to Services Requests.
- b. If you fail to take out or maintain the insurances that you are required by paragraph (a) above to have in place, without prejudice to any other remedy we may have (including our right to withhold the supply of our On-Hire Candidates) we may obtain such insurance ourselves and charge you the cost together with a handling margin up to the percentage set out in the Fees Schedule.

#### **3.2. Parties will notify each other promptly of events or circumstances that might give rise to claims against them or our On-Hire Candidates in connection with the work our On-Hire Candidates perform**

The Parties agree to notify each other promptly of any event or circumstances (including any injury or illness) that may give rise to a claim which relates to our On-Hire Candidates (or the work they perform) whether such policy, indemnity or arrangement is held or established by you or by us;

#### **3.3. Parties will co-operate with insurers who are handling claims & notifications**

The Parties agree to co-operate, reasonably and so far as is practicable, with insurers of either party (including licensed self-insurers) if the insurer is handling any claim or notification of circumstances under a relevant insurance policy or self-insurance scheme.

### **4. Work Health & Safety and Welfare Responsibilities**

#### **4.1. Parties will consult, co-operate & co-ordinate work health & safety and welfare responsibilities as required**

- a. You acknowledge and agree that you are responsible, in conjunction with us and others, (in accordance with the Parties' statutory responsibilities) for the work health & safety and welfare of our On-Hire Candidates.
- b. You agree to consult, co-operate and co-ordinate activities, in good faith, with us and with any other person who has a duty in relation to the work health & safety or welfare of our On-Hire Candidates in accordance with the requirements of the applicable Work Health & Safety Laws or any other law relating to health and safety in the workplace, including those of any relevant work health & safety code of practice or interpretative guideline that is promulgated under legislative authority and, so far as they may be applicable, in accordance with the provisions of our safety management system (should we have one) current from time to time.
- c. Consultation, co-operation and co-ordination regarding work health & safety or welfare matters in respect of which we have a duty will be conducted through our representative, who will be nominated by us from time to time, and any other party whom we reasonably consider to be necessary.

#### **4.2. Supply arrangements are to have regard to applicable consultation requirements**

- a. Prior to our supplying any On-Hire Candidate, or as soon as is reasonably practicable following entry into this Contract, you will comply with our reasonable requests to consult so as to make sure that everyone associated with the work that is to be performed has a shared understanding of what the risks are, which workers are affected, and how the risks will be controlled.
- b. Without limiting sub-paragraph (a) above, you will provide such information as we may reasonably request to assist the duty holders to work together to plan and manage work health & safety consistently with the Work Health & Safety Laws and any other law relating to health & safety or the welfare of workers in the workplace, including information about:
  - i. what each will be doing, how, when and where and what plant or substances may be used;
  - ii. who has control or influence over aspects of the work or the environment in which the work is being undertaken;
  - iii. ways in which the activities of each duty holder may affect the work environment;
  - iv. ways in which the activities of each duty holder may affect what others do;
  - v. what workers are or will be involved in the activity and who else may be affected by the activity;

- vi. what procedures or arrangements may be in place for the consultation and representation of workers, and for issue resolution;
  - vii. what information may be needed by another duty holder for health and safety purposes;
  - viii. what each knows about the hazards and risks associated with their activity;
  - ix. whether the activities of others may introduce or increase hazards or risks;
  - x. what each will be providing for health and safety, particularly for controlling risks;
  - xi. what further consultation or communication may be required to monitor health and safety or to identify any changes in the work or environment.
- c. We may reasonably require as a condition of the supply of our On-Hire Services that, in the course of any consultation conducted as aforesaid, the participants will determine, and make a common record of, which health and safety duties are shared, the identity of any person with whom they are shared, and what each person needs to do to co-operate and co-ordinate activities with each other to comply with their health and safety duties.
- d. Prior to our supplying any On-Hire Candidate, or as soon as is reasonably practicable following entry into this Contract, we may reasonably require you to conduct a process of health and safety co-ordination planning that will allow each duty holder to work together so that each person can meet their duty effectively without leaving any gaps in health and safety, protection.
- e. We may reasonably require as a condition of the supply of our On-Hire Services that, in the course of any health and safety co-ordination planning conducted as aforesaid, the participants will determine, and make a record of arrangements made with respect to:
- i. the measures which each is to put in place to work effectively together to control risks;
  - ii. the identification, timing and manner of implementation of each control measure;
  - iii. ensuring that control measures complement each other.
- f. We may reasonably require, as a condition of the supply of our On-Hire Services, that you co-operate in implementing or procuring the implementation by any third-party duty holder of, arrangements in accordance with any agreements or understandings reached during the consultation and co-ordination planning as aforesaid.
- g. If any of the conditions specified in paragraphs (a) through (f) of this sub-clause is not complied we, at our reasonable election, and without prejudice to any other remedy, may choose to:
- i. suspend the supply of our On-Hire Services during the period of non-compliance; and/or
  - ii. demobilise our On-Hire Candidates at your cost; and/or
  - iii. seek specific performance; or
  - iv. terminate this Contract immediately, or on such other notice as is commensurate with the protection of our On-Hire Candidates safety.

#### **4.3. You must provide site-specific inductions**

- a. You must provide all our On-Hire Candidates with a thorough site-specific induction, identifying all relevant risks, at your own expense, before they arrive on site and commence work.
- b. If you are not able to provide the induction, we may provide it ourselves, or obtain its provision through a Third Party of our choosing and charge the reasonable cost to you together with a handling margin up to the percentage set out in the Fees Schedule.

## PLACEMENT SERVICES PART

### 1. Additional Fee Provisions

#### 1.1. When acting on a retained basis, we will charge fees and invoice in agreed stages

When acting on a retained basis, we will charge the fees calculated in the amount and at the times set out in the Fees Schedule and item 3 of the Business Schedule.

#### 1.2. When acting on a contingent basis, we will only charge a fee if our presentation of the Candidate is materially instrumental to the Candidate's Placement with you.

When acting on a contingent basis, we will charge you a Placement Fee calculated in the amount and at the times set out in the Fees Schedule and item 3 of the Business Schedule if our presentation of the Candidate is materially instrumental to the Candidate's Placement with you.

#### 1.3. Parties agree that "material instrumentality" can be presumed in certain cases. The presumption of material instrumentality is rebuttable.

Without limiting how we may prove material instrumentality for the purposes of sub-clause 3.2 of this Part, our presentation of the Candidate will be presumed to have been materially instrumental to the Placement ("the presumption of material instrumentality") if we have done any of the following:

- a. provided the Candidate's resume, or other information about the Candidate, on an identified basis;
- b. arranged for the Candidate to attend an interview, or other pre-placement assessment, at your request;
- c. provided the results of any reference or other suitability check carried out or arranged by us at your request; or
- d. advised or participated in negotiations at your request about the terms on which the Placement is offered to, or accepted by, the Candidate -

unless it is more probable than not that our presentation of the Candidate played no material part in making the Placement.

#### 1.4. Certain common means by which our Candidate may already be known to you do not, of themselves, rebut the presumption of material instrumentality

The presumption of material instrumentality is not to be rebutted merely because, at the time when you made the offer of Placement, our Candidate:

- a. was, or was previously, connected via social media accounts with you;
- b. had previously provided, or you had obtained, a resume from the Candidate by other means;
- c. was working, or had previously worked, with you; or
- d. was already known to you by any other means, including by having been introduced by another Workforce Services Provider.

#### 1.5. The presumption of material instrumentality is automatically rebutted in some cases

However, the presumption of material instrumentality is rebutted if the offer of a Placement was made:

- a. after the expiration of any presentation period set out in the Fees Schedule; or
- b. for a Position that is substantially different in type, status, duration, or classification from that for which we had the Candidate's permission to present the Candidate for a Position with you.

#### 1.6. If our fees are calculated as a percentage of Annual Gross Remuneration (AGR) AND AGR has not been agreed with the successful Candidate at the time when we may invoice you for payment, AGR will be calculated based on the highest amount advised to us by you at any time up to the time of invoicing

If any component of our fee is calculated in whole (or in part) as a percentage of AGR AND AGR has not been agreed with the successful Candidate at the time when we may invoice you for payment, AGR will be calculated based on the highest amount advised to us by you at any time up to the time of invoicing.

#### 1.7. If AGR includes commissions or earned bonuses, we can estimate AGR inclusive of the commission or bonus and invoice you accordingly. You can dispute our estimate

If we present one of our Candidates for a Placement that attracts commission or earned bonuses as part of the remuneration AND our fee is calculated in whole or in part as a percentage of AGR:

- a. we will provide to you our estimate of the AGR inclusive of the commission and earned bonus and attempt to agree it with you;
- b. for the purpose of calculating our fees:
  - i. AGR will be calculated having regard to the estimated commission/bonus earnings indicated by any position description, authorised position advertisement, key performance indicators, or relevant industry benchmark that may be available;
  - ii. if our estimate is disputed in writing within three (3) business days of its being provided to you, AGR will be the amount determined by a person nominated by the CEO for the time being of RCSA, who shall act as an expert and not as an arbitrator; and
  - iii. if not disputed in the manner set out at subparagraph (ii) above, AGR will be deemed to be the amount provided in our estimate.

## DEFINITIONS & INTERPRETATION SCHEDULE

### Definitions

#### Annualised Gross Remuneration ("AGR") -

means the annualised (or in the case of a seasonal worker, seasonalised) sum of all remuneration payable to a Candidate hired or engaged (and if part-time, calculated as though on a full-time basis), including any benefit that forms part of the consideration payable to the Candidate for the hiring or engagement.

#### Assignment

##### our Candidate -

means a person:

- a. who is seeking a Position through us; or
- b. whom we have identified as a person:
  - i. who might consider seeking a Position through us; and
  - ii. about whom we can provide relevant information regarding that person's availability or suitability for a Position;

and includes an On-Hire Candidate.

##### Contingent basis -

refers to the supply of our Placement Services on the basis that we are only paid a fee if one of our Candidates obtains a Position with you (or with someone to whom you have passed on personal information about that Candidate without our consent).

##### Employ -

includes engage as an independent contractor, working director or officer or in any remunerated or stipended Position and additionally includes engagement via a Freelancing or Gig Economy Platform, and engagement in a volunteer Position if you expressly request our Workforce Services to assist you to fill a volunteer Position.

##### Employment Premium -

- a. means any fee or charge of a type that is prohibited by the applicable provisions of the:
  - i. Agents Act 2000 (ACT)
  - ii. Employment Agents Act 1976 (WA)
  - iii. Employment Agents Registration Act 1993 (SA)
  - iv. Fair Trading Act 1987 (NSW)
  - v. Industrial Relations Act 2016 (Qld)
  - vi. Private Employment Agents Act 2005 & Private Employment Agents (Code of Conduct) Regulation 2015 (Qld)
  - vii. Wages Protection Act 1983 (NZ)

viii. and in any additional local or foreign laws that apply to the charging of fees and charges to workers in connection with the supply of our Workforce Services; and

- b. includes **Recruitment Fees** and **Related Costs**, which are more specifically described below and which refer to any or all fees, charges, expenses or financial obligations incurred in the recruitment process in order for workers to secure employment, regardless of the manner, timing or location of their imposition or collection, and whether they are deducted from wages, paid back in wages or benefit concessions, remitted in connection with recruitment, or collected by an employer or a third party, including but not limited to agents, labour recruiters, staffing firms, subsidiaries/affiliates of the employer and any agent or employee of such entities; but

- c. does not include any fee lawfully charged by a registered migration agent.

##### Exclusive basis -

refers to the supply of our Workforce Services on the basis that we are the sole supplier you have authorised to supply On-Hire Services or Placement Services for a particular Position.

##### Exploitation

exploitation, of one person (the victim) by another person, occurs if the other person's conduct causes the victim to enter into any of the following conditions:

- a. slavery, or a condition similar to slavery;
- b. servitude;
- c. forced labour;
- d. forced marriage;
- e. debt bondage;

and includes, to the extent applicable:

- f. a serious contravention of civil remedy provisions within the meaning of s. 557A of the *Fair Work Act 2009* (C'th);
- g. a deliberate, serious and sustained failure to comply with the duty of good faith in s. 4 of the *Employment Relations Act 2000* (NZ); and
- h. unconscionable conduct within the meaning of the common law or applicable statutory law.

##### Freelancing or Gig Economy Platform -

includes any digital environment in which temporary Positions are offered to and sought by workers and in which organisations contract with workers for short-term engagements.

Examples: Freelancer; UpWork.

##### GST definitions & interpretation -

means the following definitions and interpretations:

**Consideration -**

means any consideration payable under this Contract in return for a taxable supply but does not include any amount on account of GST.

**GST Act -**

means the A New Tax System (Goods and Services Tax) Act 1999 (C'th) (as amended);

**GST -**

has the same meaning given to that term in the GST Act;

**Supply -**

has the same meaning given to that term in the GST Act;

**Tax Invoice -**

has the same meaning given to that term in the GST Act;

**Taxable Supply -**

has the same meaning given to that term in the GST Act;

**Application to New Zealand and other countries-**

The GST definitions apply (with necessary changes being made) to goods and services tax (or similar tax) chargeable on the Consideration in New Zealand or under the revenue laws of any other country where goods and services tax (or similar tax) is chargeable on any part of the Consideration payable under this Contract.

**Insolvency event –**

means any of the following events:

- a. a controller (as defined in the Corporations Act 2001) is appointed to the Party, or over any of the property of the party;
- b. the Party becomes bankrupt;
- c. a controlling trustee is appointed to the party, or over any of the property of the Party;
- d. the Party or the Party's property becomes subject to a personal insolvency arrangement under part X Bankruptcy Act 1966 (C'th) or a debt agreement under part IX Bankruptcy Act 1966 (C'th);
- e. the Party is unable to pay its debts when they become due and payable;
- f. the Party ceases to carry on business; or
- g. any event which happens in New Zealand or any other country or territory in respect of a Party that is similar in legal effect regarding the property or affairs of the Party to any of the events or circumstances referred to in paragraphs (a) through (f) of this definition.

Any event that takes place as part of a solvent reconstruction, amalgamation, merger, or consolidation, on terms approved in writing by the other party beforehand and in compliance with those terms is excluded from this definition.

**On-Hire Services**

means services where a Workforce Services Provider makes a worker engaged by the provider available to perform work, whether under a contract of service or a contract for services, for a customer of the provider; and:

- a. the worker works (or is to work) under the customer's direction, supervision or instruction or under the direction, supervision or instruction of another person for the customer's benefit; and
- b. the Workforce Services Provider is responsible (through itself or through its appointees) for performing the obligations of the engagement owed by the provider to the worker, including paying the worker for the work

For the avoidance of doubt, on-hire services do not include the work that the on-hired worker performs.

**Position –**

means a position that is available, or that we reasonably believe is likely to be imminently available.

**Placement -**

means the filling of a Position with you, or with a person on whose behalf or for whose benefit you are acting, or to whom you have disclosed confidential information about our Candidate without our consent.

**Placement Services –**

means services where a workforce services provider presents or represents candidates to persons seeking a candidate to perform work.

**Privacy Law**

means any:

- a. statute;
- b. regulation;
- c. by-law; or
- d. code of practice, binding corporate rule, or standard contractual or administrative provision or direction made under a statute, regulation or by-law,

that applies for the protection of an individual's privacy rights including the *Australian Privacy Principles* ("APPs"), New Zealand's *Information Privacy Principles* ("NZ IPPs") and the *General Data Protection Regulation* (EU) 2016/679 ("GDPR").

**RCSA -**

refers to The Recruitment Consulting & Staffing Association Limited ACN 078 606 416.

**Recruitment Brief –**

means a detailed written specification for our Workforce Services including details about the work to be performed, any relevant person or position description, any extra or incidental services that we are to supply, any special or additional condition of the supply of our Workforce Services and such further information that we may reasonably require in order to assess whether to accept the Services Request or in order to supply our Workforce Services so as to meet the Services Request.

**Recruitment Fees -**

- a. include:
  - i. payments for Workforce Services offered by providers of Workforce Services, whether public or private, in matching offers of and applications for employment, or in employing workers with a view to making them available to a third party which assigns their tasks and supervises the execution of these tasks;
  - ii. payments made in the case of direct hire by employers; and
- b. may be one-time or recurring and cover services for advertising and disseminating information, arranging interviews, submitting documents for government clearances, and organising travel and transportation, including in the case of migrant workers, placement into employment and return to the country of origin where applicable.

**Related Costs -**

- a. means expenses integral to the recruitment process within or across national borders; and
- b. depending on the recruitment process and the context, these costs could include:
  - i. **Costs for medical tests:** these refer to payments for the obligatory medical examinations and specialised tests that are necessary to complete any stage of the recruitment process.
  - ii. **Costs for skills and qualification tests and training:** these include the costs incurred for verification tests on workers' level of skills and qualifications. This may also comprise examinations for language proficiency, particularly in the context of cross-border recruitment. Moreover, these costs include the expenses incurred when employers and their representatives require additional training courses/measures to upgrade workers' skills as a condition of their recruitment.
  - iii. **Costs for internal travel:** these refer to expenses incurred for travel within national borders in a specific recruitment process. These costs can also include the relocation of workers, when required for a specific recruitment situation, from the place of usual residence to the new residence and place of work and back to the place of usual residence upon termination of contract.
  - iv. **Costs for introduction and orientation programmes:** these include expenses for the basic preliminary installation and

orientation of newly recruited workers, including on-site job orientation and training, for example on occupational safety and health. There may also be further obligatory medical screening and tests.

- v. **Other administrative costs:** these include fees for notary and other legal, language, drafting and translation services aimed at preparing, obtaining or legalising workers' identity documents, education and training credentials and employment contracts; and the cost of obtaining government clearances, including obligatory police and security clearances.

**In addition to the costs listed under points (i) to (v) above, the following specific costs are attributed to international recruitment.**

- vi. Costs for international travel and transportation and accommodation: these refer to expenses incurred for international travel in a specific cross-border recruitment process. These may include expenses for:
  1. the relocation of workers from the place of usual residence to the new residence and place of work;
  2. health and accident insurance costs covering the transportation period;
  3. lodging and subsistence during transit;
  4. workers' requirements to obtain a passport or visa and costs for other clearance documents specifically required for international travel.
- vii. **Costs attributed to return:** these include transportation, lodging, health care and subsistence to ensure the foreign workers' return home upon contract completion or in certain situations requiring an early end to the employment contract for various reasons.
- viii. **Costs for clearances and permits payable in the country of origin, transit and destination:** these refer specifically to the expenses incurred to meet the requirements imposed by the:
  1. country of origin for verification and vetting of employment contracts and enrolment into migrant welfare funds; and
  2. prospective employer or country of destination for entry and residence approvals, the cost of the visa, its application and grant, work and residence permits (including renewals).

This may also include costs for the authentication of documents to ensure compliance with the requirements of the country of origin, transit and/or destination.
- ix. Costs for pre-departure orientation: these refer to payments for migrant workers' attendance in seminars prior to foreign employment, organised to better prepare selected workers for the living and working conditions at destination.
- x. Costs for post-arrival information and orientation: these include expenses incurred for programmes designed for newly recruited foreign workers on arrival in a destination country, for example, obligatory post-arrival information and orientation programmes.

**Related Entity -**

has the same meaning as in the Corporations Act 2001 and applies, with the necessary changes being made, if you are not a body corporate under that Act.

**Reporting Requirements –**

means any statutory or other obligation (including an obligation imposed as a condition of our holding any licence or certification) that we have to make reports, or submit to audit, about the provision of our Workforce services or supply chains.

**Retained Basis -**

refers to the supply of our Placement Services on the basis that we are paid for our services regardless of whether the Position is filled or not. To avoid doubt, the engagement of our services on a contingent basis in circumstances where a cancellation or withdrawal of instructions fee is payable to us does not amount to engagement on a retained basis.

**Schedule -**

means the schedules to this Contract, which may be substituted as provided from time to time.

**Service Level Agreement -**

means a written agreement that may be entered into between the Parties complementary to this Contract and which sets out additional matters that relate to the supply and acquisition of our Workforce Services, including:

- a. any value proposition to which we commit or service commitment that we make;
- b. additional details of services to be provided;
- c. the Parties' agreements regarding the specification and use of any service delivery system;
- d. desired performance levels, including agreed levels of reliability and responsiveness;
- e. monitoring processes and service level reporting arrangements;
- f. steps for reporting issues arising with the service or the Parties' relationship;
- g. response and issue resolution time-frame;
- h. repercussions for a party not meeting its commitments under the Service Level Agreement; and
- i. any other matter that the Parties may agree is relevant to the way they deal with each other for the supply and acquisition of our Workforce Services.

**Service Network -**

means the set of contracts, arrangements or understandings for the performance of any two or more Service Network roles.

**Service Network Participants -**

means the any Third Party (including their appointed officers, agents and employees) with whom either Party has a contract, arrangement or understanding for the performance of any of the Service Network Roles affecting our Candidates.

**Service Network Roles**

means any of the following roles in relation to our Candidates:

- a. sourcing/selection
- b. engagement
- c. mobilisation (including induction and work health & safety training)
- d. occupational, pre-vocational and recent-graduate training
- e. performance of work (by workseekers)
- f. management & supervision
- g. accommodation
- h. payment
- i. demobilisation.
- j. any other matter that the Parties may agree is relevant to the way they deal with each other for the supply and acquisition of our Workforce Services.

**Synopsis -**

means our summary guide to this Contract.

**Third Party -**

means a person that is not a party to this Contract.

**Timely manner (or promptly) –**

in relation to the giving of any information in relation to anything includes the provision of information reasonably in advance wherever it is practicable to do so; or forthwith upon occurrence of any event or circumstance that makes giving the information necessary or desirable; and, unless otherwise agreed, in any case no later than 48 hours after upon occurrence of the event or circumstance that makes giving the information necessary or desirable.

**Us, our or we -**

refers to the supplier named in item 1 of the Business Schedule and includes our successors and permitted assigns.

**Work Entitlements –**



includes any salary, wages, allowances, leave (including annual, long service or personal/carer's, domestic violence leave or payments in respect of any of them), notice of termination or payment in respect of notice of termination, redundancy pay, commissions, bonuses, performance related pay, reimbursement of expenses, superannuation and any entitlement which may be owed or payable pursuant to any award, agreement or other industrial instrument, statute or employment contract to which a worker may be entitled in respect of their employment or the termination of that employment.

#### **Work Equipment -**

includes any plant, equipment, tools, stationery and other property or items (including personal protective equipment) required to enable our Candidates to perform their work safely and efficiently.

#### **Worker -**

Is a person who works in any capacity e.g. as an employee, independent contractor, freelancer or Gig Economy worker, flex worker, partner in a partnership, director or officer, volunteer, or intern and includes a person who is seeking work in any capacity.

#### **Workforce Contracting Services -**

means services where a Workforce Services Provider uses a **relevant worker** as part of a **workforce** engaged or deployed by the Workforce Services Provider to perform work in meeting the requirements of a **workforce contract** which the Workforce Services Provider has with a customer.

For the purposes of this definition:

- a. a person is a **relevant worker** if:
  - i. the person does not genuinely operate their own business and perform the work in and as part of that business, or is not otherwise deemed to be an independent contractor; AND
  - ii. an industrial instrument covers the person or would cover the person as an employee if employed to do the work;
- b. a Workforce Services Provider uses a relevant worker if the Workforce Services Provider:
  - i. makes arrangements with the worker that require the worker to follow its instructions or work under its general guidance; or
  - ii. determines where, when, or how the worker carries out their work; or
  - iii. requires the worker to sell or supply their work product to it (or its nominee) as the first link in a buying or supply chain in relation to that work product;
- c. sub-paragraph (b) applies regardless of whether the Workforce Services Provider makes the arrangements directly with the worker or indirectly through another person;
- d. a **workforce** is a group of two or more workers who are working, or are available to work, to meet the requirements of a workforce contract;
- e. a **workforce contract** means a contract which is wholly or principally for the supply of labour. For the purposes of this definition, a contract is principally for the supply of labour if more than half of the direct costs properly attributable to deliverables to be supplied under the contract is for labour.

#### **our Workforce Services -**

means any of the following services:

- a. On-Hire Services;
- b. Placement Services.

#### **Workforce Services Provider**

means a person who, in trade or commerce, provides Contract Management Services, On-Hire Services, Placement Services, or Workforce Contracting Services.

#### **Writing -**

means any form of electronic communication that meets the requirements of the electronic transactions legislation governing the communication.

#### **You or your -**

refers to the client named in item 2 of the Business Schedule and includes any of your Related Entities or a Third Party for whom you have authority (whether actual, implied or ostensible) to enter into this Contract, and also includes your and their successors and permitted assigns.

#### **Rules of Interpretation**

##### **Currency**

References to money are references to currency if the law of the jurisdiction chosen by the Parties and set out at item 5 of the Business Schedule.

##### **Headings and examples**

Headings and examples are for convenience only and do not form part of this document or affect its interpretation.

##### **Internal clause references**

A reference to a clause, paragraph, item or schedule is a reference to a clause, paragraph, item or a schedule to this Contract. If any internal reference appears to be a mistake, it is to be resolved in the manner that will best give effect to the purpose of this Contract and the Parties' duty of co-operation.

##### **Interpretation against a party**

No provision of this Contract will be interpreted against a party merely because that party drafted its terms or stipulated its inclusion.

##### **Legislation**

Legislative references include:

- a. any statutory provision forming part of the reference as amended or re-enacted from time to time;
- b. a statute, regulation or provision enacted in replacement of that statutory provision; and
- c. another regulation or other statutory instrument made or issued under that statutory provision.

##### **Number**

The singular includes the plural, and the plural includes the singular.

##### **Parts of speech**

Where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have a corresponding meaning.

##### **Persons**

A person includes a body corporate, as well as a Crown or State authority, or an unincorporated association, firm or partnership.

##### **Reasonable judgment**

Wherever this Contract confers upon a Party a unilateral power to make a decision or to exercise judgment, the power is subject to the requirement that it be exercised reasonably and in good faith.