

OFFICIAL



Australian Government
Department of Defence

DEED OF STANDING OFFER FOR SALARY PACKAGING ADMINISTRATION SERVICES

DEED NO: P230572

RECITALS

- A. The Commonwealth of Australia as represented by the Department of Defence has established a panel for the provision of salary packaging administration services (Panel) which may be accessed by Commonwealth Permitted Agencies from 1 July 2021.
- B. The Contractor has agreed to provide the services in accordance with this Deed and has acknowledged it is one of a number of suppliers on the Panel.
- C. The Contractor has agreed to provide a full and flexible range of salary packaging items, as required by any Permitted Agency.
- D. The Commonwealth represented by the Australian Federal Police is a Permitted Agency.
- E. With reference to clause 1.14.2 [Multi Agency Access] of the Contractor's Deed with the Commonwealth of Australia represented by the Department of Defence, this document is a New Deed entered into between the Commonwealth represented by the Australian Federal Police and the Contractor. Amendments agreed by the Permitted Agency and the Contractor are incorporated into this document.

DETAILS SCHEDULE

PARTIES

COMMONWEALTH OF AUSTRALIA represented by the AUSTRALIAN FEDERAL POLICE ABN 17 864 931 143 (Commonwealth)

Commonwealth Representative:	s 22(1)(a)(ii)	
Notice Details:	Address:	GPO Box 401, Canberra ACT 2601
	Phone:	or as advised in writing consistent with Deed clause 2.4 [Notices]
	Email:	or as advised in writing consistent with Deed clause 2.4 [Notices]

MAXXIA PTY LTD ACN 082 449 036 / ABN 39 082 449 036 (Contractor)

Contractor Representative:	s 22(1)(a)(ii)	
Notice Details:	Address:	Level 21 360 Elizabeth Street Melbourne VIC 3000
	Phone:	s 22(1)(a)(ii)
	Email:	s 22(1)(a)(ii)

INFORMATION TABLE

Item	Information		
Item 1 (clause 1.3.1)	Initial Term:	Effective Date:	s 47(1)
		Expiry Date:	
Item 2 (clauses 1.3.2 & 1.3.3)	Options to Extend:	Number of Options:	s 47(1)
		Option Period:	
Item 3	Not used		
Item 4 (clause 6.4)	Public liability:	s 47(1)	
	Professional indemnity:	s 47(1)	
Item 5 (clause 7.2)	Warranty Period:	One (1) year	
Item 6 (clause 8.13)	Security:	Security Classification of information, assets	OFFICIAL

Item Information

and work to be performed under the Deed or SPA:

(clause 8.13.3)

Personnel security **AGSVA Baseline** clearance:

(clause 8.13.3b)

Item 7
(clause 9.1) Governing Law:

Australian Capital Territory

Item 8
(clause 1.14) Official Bank
(Attachment A Accounts
paragraph 6.1)

TBA

THE DOCUMENT IS RELEASED BY
THE AUSTRALIAN FEDERAL POLICE
UNDER THE FREEDOM OF INFORMATION ACT 1982

DEED OF STANDING OFFER

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1 DEED FRAMEWORK

1.1 Definitions

1.1.1 In the Deed, unless the contrary intention appears, words, abbreviations and acronyms have the meanings given to them, by the Details Schedule or by the Glossary at Attachment G. The Glossary also contains a list of documents referred to in the Deed and details of the version that is applicable to the Deed.

1.2 Interpretation

1.2.1 In the Deed, unless the contrary intention appears:

- a. headings are for the purpose of convenient reference only and do not form part of the Deed;
- b. the singular includes the plural and vice-versa;
- c. a reference to one gender includes the others;
- d. a reference to a person includes a body politic, body corporate or a partnership;
- e. if the last day of any period prescribed for the doing of an action falls on a day which is not a Working Day, the action shall be done no later than the end of the next Working Day;
- f. a reference to an Act is a reference to an Act of the Commonwealth, State or Territory of Australia, as amended from time to time, and includes a reference to any subordinate legislation made under the Act;
- g. a reference to a clause includes a reference to a subclause of that clause;
- h. a reference to a 'dollar', '\$', '\$A' or 'AUD' means the Australian dollar unless otherwise stated;
- i. a reference to a specification, publication, Commonwealth policy or other document is a reference to that specification, publication, Commonwealth policy or document, in effect on the Effective Date specified at the Details Schedule and updated from time to time, or alternatively, a reference to another version of the document if agreed in writing between the parties;
- j. the word "includes" in any form is not a word of limitation; and
- k. a reference to a party includes that party's administrators, successors, and permitted assignees, including any person to whom that party novates any part of the Deed.

1.2.2 All information provided as part of the Services under the Deed and any SPA shall be written in English. Measurements of physical quantity shall be in Australian legal units as prescribed under the *National Measurement Act 1960* (Cth) or, if Services are imported, units of measurement as agreed by the Commonwealth Representative specified in the Details Schedule.

1.3 Term

1.3.1

1.3.2

1.3.3

1.3.4

s 47(1)

1.4 Salary Packaging Agreement (SPA) Term

- 1.4.1 Each SPA begins on the date, and continues for the term, specified in the SPA.
- 1.4.2 The Contractor shall fulfil all SPAs entered into during the Deed Term on the conditions current at the time the SPA is made notwithstanding that completion of the SPA may occur after the date on which the Deed has expired.
- 1.4.3 If the Deed is terminated or expires while an SPA is in force:
- any such SPA shall remain in force and subject to the terms of this Deed until the relevant SPA expires or is terminated in accordance with its terms; and
 - the Contractor shall not be entitled to enter into any new SPAs following the date on which this Deed expires or is terminated.

1.5 Entire Agreement

- 1.5.1 To the extent permitted by law, the Deed, represents the parties' entire agreement in relation to the subject matter and supersedes all tendered offers and prior representations, communications, agreements, statements and understandings, whether oral or in writing.

1.6 Precedence of Documents

- 1.6.1 If there is any inconsistency between the terms of this Deed or any documents referred to or incorporated into this Deed, a descending order of precedence shall be accorded to:
- the COD (including the Details Schedule) and the Glossary (other than the referenced documents in the Glossary);
 - the attachments to the COD, other than the Glossary;
 - any SPA;
 - any attachments or annexures to the relevant SPA; and
 - any other plan or document incorporated by express reference as part of the Deed, so that the term in the higher ranked document, to the extent of the inconsistency, shall prevail.

1.7 Formation, Scope and Operation of Deed

- 1.7.1
- 1.7.2
- s 47(1)

1.8 Ordering Services

- 1.8.1 The range of Services which the Contractor offers the Commonwealth are detailed at Attachment A to this Deed.
- 1.8.2 The Contractor offers to provide the Services in accordance with the Deed and at the fees set out in Attachment D.

1.9 Request for and Acceptance of a Quotation

- 1.9.1
- 1.9.2
- 1.9.3
- s 47(1)

1.9.4 s 47(1)

1.9.5

1.9.6

1.10 SPAs

1.10.1 The terms of a SPA will be as agreed between the Participant and the Contractor. However, the Contractor must ensure that the SPA:

- a. does not include fees that exceed the fees and charges specified in Attachment D;
- b. shall only provide for the provision of finance to the Participant at rates that are market competitive, if applicable; and
- c. meets all of the legally enforceable requirements of the ATO regarding arrangements for the provision of the Services.

1.10.2 If requested by the Commonwealth, the Contractor must give to the Commonwealth a copy of its SPA terms and obtain the Commonwealth's approval of those terms prior to entering into an SPA.

1.10.3 The Contractor must not provide Services to, or charge, a Participant unless the Contractor and the Participant have executed an SPA for the provision of those Services.

1.10.4 The Contractor must perform the Services specified in accordance with this Deed and any SPA.

1.11

1.11.1

1.11.2

s 47(1)

1.12 Panel Review and Refresh

1.12.1

s 47(1)

1.13 Services

1.13.1 The Contractor acknowledges and agrees that:

- a. the Commonwealth has relied on the Contractor's representations about the Services (including as reflected in the SPA);

- b. the Commonwealth has determined that the Deed is value for money on the basis that the provision of all Services is achieved in accordance with the Deed and with no delay; and
 - c. it is reasonable that the Commonwealth at all times during the period of the Deed and any SPA has current knowledge and be advised by the Contractor of:
 - (i) not used;
 - (ii) risks to the timely provision of the Services including potential minor omissions and defects;
 - (iii) any other potential or actual non-compliance with the Deed or any SPA;
 - (iv) risk management, including management of emerging risks; and
 - (v) any potential delay in meeting any timing obligation in the Deed or any SPA, for any reason, and whether or not the delay risk was foreseeable or has been previously identified.
- 1.13.2 The Contractor must supply the Services:
- a. with due skill and care and to the best of the Contractor's knowledge and expertise;
 - b. in consultation with the Commonwealth Personnel;
 - c. in accordance with:
 - (i) the Performance Measures and any Service Levels;
 - (ii) relevant Australian industry standards, best practice and guidelines or where none apply, relevant international industry standards, best practice and guidelines;
 - (iii) all applicable Laws;
 - (iv) the Commonwealth Requirements;
 - (v) any reasonable directions in relation to the Services given by the Commonwealth from time to time;
 - d. using the Key Personnel (if any);
 - e. promptly and without delay; and
 - f. otherwise in accordance with the provisions of this Deed and any SPA.
- 1.13.3 The Contractor shall proactively ensure that the Commonwealth is kept informed of matters relevant to the issues in clause 1.13.1, using the communication channels and reporting processes in the Deed; and
- 1.13.4 The Contractor acknowledges and agrees that the Services do not extend to the provision of financial counselling or related assistance.

1.14 Not Used

2 ROLES AND RESPONSIBILITIES

2.1 Commonwealth Representative

- 2.1.1 The Commonwealth Representative is responsible for administering the Deed on behalf of the Commonwealth.
- 2.1.2 The Contractor shall comply with the reasonable directions of the Commonwealth Representative made within the scope of the administration of the Deed.
- 2.1.3 If given orally a direction shall be confirmed in writing within 10 Working Days. Unless otherwise specified in the Deed, the Commonwealth Representative shall have no authority to waive any provision of, or release the Contractor from, its obligations under the Deed except in accordance with clause 8.5.

- 2.1.4 Unless authorised by this Deed, any work performed or cost incurred by the Contractor in response to a communication from the Commonwealth Representative is at the Contractor's sole risk.

2.2 Authorised Officer

- 2.2.1 The Commonwealth Representative may nominate by written notice to the Contractor from time to time any Authorised Officers for the purposes of the Deed. The written notice shall include the address and email at which notice or communication under the Deed is to be delivered to the Authorised Officer.
- 2.2.2 An Authorised Officer is responsible for administering this Deed on behalf of the Commonwealth. The Contractor shall comply with the reasonable directions of the Authorised Officer. All directions by an Authorised Officer will be provided in writing. The Authorised Officer shall have no authority to waive any provision of, or release the Contractor from, its obligations under the Deed except in accordance with clause 8.5.
- 2.2.3 Unless authorised by this Deed or any SPA, any work performed or cost incurred by the Contractor in response to a communication from the Authorised Officer is at the Contractor's sole risk.

2.3 Contractor Representative

- 2.3.1 The Contractor shall on or before the Effective Date specified in the Details Schedule nominate in writing the person with the authority to represent the Contractor for the purposes of the Deed. Any communication passed by the Commonwealth to this person in accordance with clause 2.4 shall be deemed to have been delivered to the Contractor.

2.4 Notices

- 2.4.1 Unless the contrary intention appears, any notice under the Deed, (not including SPAs), shall be effective if it is in writing and sent from and delivered to the Commonwealth Representative or Contractor Representative, as the case may be, in accordance with the Notice Details specified in the Details Schedule.
- 2.4.2 A notice given in accordance with this clause 2.4 is deemed to be delivered:
- a. if sent by pre-paid post, in three Working Days when sent within Australia and in eight Working Days when sent by air mail from one country to another;
 - b. if hand delivered, when received at the address, or by the addressee if sooner; or
 - c. if sent as an email, when the email enters the recipient's information system, unless the sender's information system receives a message within one Working Day that the email has not been delivered to the recipient,
- but if the receipt, transmission or entry into the information system is not on a Working Day or is after 5.00pm (recipient's local time) on a Working Day, the notice is deemed to be delivered at 9.00am (recipient's local time) on the next Working Day.

3 PROVISION OF THE SERVICES

3.1 Authorisations

- 3.1.1 The Contractor shall, and shall ensure that its Subcontractors:
- a. obtain and maintain in full force all Authorisations required for provision of the Services;
 - b. provide a copy of any Authorisations to the Commonwealth within 10 Working Days of request by the Commonwealth; and
 - c. ensure that the Services are provided in accordance with all Authorisations.
- 3.1.2 The Contractor shall notify the Commonwealth Representative within 10 Working Days after receiving notification of refusal to grant, or an intent to revoke or qualify, an Authorisation required for the provision of the Services.

3.2 Contractor Personnel

- 3.2.1 The Contractor shall ensure that the Services are performed by Contractor Personnel who:
- a. are suitably qualified, with appropriate skills and experience; and
 - b. hold an appropriate current certificate, authorisation or accreditation at all times during the provision of the Services.
- 3.2.2 The Commonwealth may, at any time, give notice in writing, including reasons, directing the Contractor to remove Contractor Personnel from work in respect of the Services. The Contractor shall arrange for their replacement at the earliest opportunity with Contractor Personnel of appropriate skills and experience.
- 3.2.3 If the Contractor is unable to provide a replacement with suitable skills or in a sufficient time to enable the Contractor to complete the Services in accordance with the Deed, the Commonwealth may terminate the Deed in accordance with clause 10.2.
- 3.2.4 Any requirement to replace any of the Contractor Personnel (whether at the request of the Commonwealth or not) shall not constitute an act or event that is beyond the reasonable control of the Contractor in meeting the requirements of the Deed.

4 INTELLECTUAL PROPERTY

4.1 Ownership of Intellectual Property

- 4.1.1 Nothing in the Deed affects the ownership of Background IP or Third Party IP.
- 4.1.2 Ownership of all Foreground IP vests on its creation in the Contractor or the Subcontractor as the case may be.

4.2 Intellectual Property Licence

- 4.2.1 The Contractor grants to the Commonwealth a royalty-free, irrevocable, world-wide, perpetual, non-exclusive licence in respect of all Background IP and Foreground IP owned by the Contractor, including the right to sub-licence:
- a. to use, maintain, modify, develop and dispose of the Services;
 - b. to complete the Services upon termination of the Deed or any SPA; and
 - c. to remedy defects or omissions in the Services in accordance with clause 7.2.
- 4.2.2 The Contractor shall ensure that before a Subcontractor commences work in relation to the Services, the Commonwealth is granted a licence in respect of all Background IP and Foreground IP owned by or licensed to a Subcontractor on the same terms as clause 4.2.1.
- 4.2.3 The Contractor shall ensure that the Commonwealth is granted a licence to exercise all Third Party IP on the best available commercial terms.
- 4.2.4 The Commonwealth may, on request, grant the Contractor a licence to exercise Foreground IP owned by the Commonwealth.

4.3 Provision of Technical Data

- 4.3.1 The Contractor shall provide with the Services all Technical Data (TD) necessary for the Commonwealth to exercise its IP rights as defined in clauses 4.1 and 4.2, for the purposes permitted by that licence.
- 4.3.2 The Contractor shall ensure that all TD provided to the Commonwealth will enable a reasonably skilled person to efficiently and effectively do the things permitted to be done by the Commonwealth in the exercise of its IP rights under clauses 4.1 and 4.2.

4.4 Intellectual Property Schedule

- 4.4.1 The Contractor shall maintain and update the Intellectual Property Schedule at Attachment F.
- 4.4.2 The Contractor shall deliver updated versions of the Intellectual Property Schedule by submitting change proposals in accordance with clause 8.1 to reflect the changes to the Intellectual Property Schedule.

- 4.4.3 The Contractor shall, as soon as possible, upon request by the Commonwealth, deliver an updated Intellectual Property Schedule to the Authorised Representative.
- 4.4.4 For the avoidance of doubt, the Intellectual Property Schedule is for record management purposes and does not in any way alter or limit this clause 4.4. If there is any inconsistency between this clause 4.4 and the Intellectual Property Schedule, clause 4.4 shall, to the extent of the inconsistency, prevail.

4.5 Release to Third Parties

- 4.5.1 If the Commonwealth makes available to another person any IP rights that are owned by the Contractor and which is Background IP or Foreground IP, the Commonwealth shall obtain from that person a deed of confidentiality.

4.6 Moral Rights

- 4.6.1 The Contractor represents and warrants that the use of the Services for Commonwealth Purposes or other purposes permitted by the Deed or any SPA will not infringe the Moral Rights of the Contractor Personnel, Subcontractors or Subcontractor Personnel.
- 4.6.2 The Contractor shall ensure that none of the:
- a. Contractor Personnel;
 - b. Subcontractors; or
 - c. Subcontractor Personnel,
- institute, maintain or support any claim or proceeding against the Commonwealth or its officers, employees or agents for infringement of any of their Moral Rights.

5 PRICE AND PAYMENT

5.1 Price and Price Basis

- 5.1.1 s 47(1)

5.2 Obligation to pay charges

- 5.2.1
- 5.2.2
- 5.2.3 s 47(1)

5.3 Taxes and Duties

- 5.3.1 All taxes, duties and government charges imposed or levied in Australia or overseas in connection with the Deed or any SPA shall be met by the Contractor.

5.4 Adjustments

- 5.4.1
- 5.4.2 s 47(1)

5.4.3

s 47(1)

5.5 Adjustments for Option to Extend

5.5.1

s 47(1)

6 INSURANCE AND LIABILITY

6.1

6.1.1

s 47(1)

6.2

6.2.1

s 47(1)

6.2.2

6.3 Not Used

6.4 Insurance

- 6.4.1 The Contractor shall effect and maintain (or be insured under) the insurances for the times and in the manner specified in this clause 6.4, except to the extent that a particular risk is insured against under other insurance effected in compliance with this clause 6.4.
- 6.4.2 The Contractor shall use its reasonable endeavours to ensure that its Subcontractors are insured as required by this clause 6.4, as is appropriate (including with respect to the amount

of insurance, types of insurance and period of insurance) given the nature of services or work to be performed by them, as if they were the Contractor.

- 6.4.3 **(workers compensation)** The Contractor shall effect and maintain workers compensation insurance or registrations as required by law, in respect of the Contractor's liability to its employees engaged in the performance of any obligation or the exercise of any right under the Deed or any SPA.
- 6.4.4 **(public liability)** The Contractor shall effect and maintain public liability insurance written on an occurrence basis with a limit of indemnity of not less than the amount specified in the Details Schedule each and every occurrence which covers the Contractor and Contractor Personnel for their respective liabilities caused by, arising out of, or in connection with the negligent performance of any obligation or the exercise of any right under the Deed or any SPA by the Contractor, Contractor Personnel, Subcontractors or Subcontractor Personnel.
- 6.4.5 **(professional indemnity)** The Contractor shall effect and maintain professional indemnity insurance with a limit of indemnity of not less than the amount specified in the Details Schedule per claim and in the aggregate for all claims in any 12 month policy period, and including a right of reinstatement, which covers the liability of the Contractor at general law arising from a negligent breach of duty owed in a professional capacity by reason of any act or omission of the Contractor, Contractor Personnel, Subcontractors or Subcontractor Personnel. Such insurance shall:
- a. have a definition of professional services broad enough to include all professional services, activities and duties to be provided or performed by the Contractor, Contractor Personnel, Subcontractors and Subcontractor Personnel under the Deed or any SPA;
 - b. extend to cover claims related to software and IT risks;
 - c. extend to cover claims for unintentional breaches of intellectual property rights;
 - d. extend to cover claims for unintentional breaches of trade practices laws;
 - e. have a retroactive date of no later than the earlier of the commencement of the work under the Deed or any earlier preparatory work by the Contractor, Contractor Personnel, Subcontractors and Subcontractor Personnel; and
 - f. have worldwide territorial and jurisdictional limits.
- 6.4.6 The insurances and registrations referred to in:
- a. the following clauses shall be effected before the Contractor commences work under the Deed, and thereafter be maintained until all work under the Deed and any SPA is completed:
 - (i) clause 6.4.3 (workers compensation); and
 - (ii) clause 6.4.4 (public liability);
 - b. clause 6.4.5 (professional indemnity) shall be effected before the Contractor commences work under the Deed, and thereafter be maintained until the earlier of:
 - (i) 7 years following completion of the work under the Deed and any SPA; or
 - (ii) 7 years following an earlier termination of the Deed and all Contracts extant at the date of termination of the Deed.
- 6.4.7 To the extent that the Contractor's insurances and registrations required by clause 6.4 of this Deed are in fact written on a claims made basis (notwithstanding any requirements of this Deed for such insurances to be written on an occurrence basis) then the Contractor must maintain those insurances and registrations until the earlier of:
- a. 7 years following completion of the work under the Deed and any SPA; or
 - b. 7 years following an earlier termination of the Deed and all SPAs extant at the date of termination of the Deed.
- 6.4.8 With the exception of statutory insurances, the insurances referred to in this clause 6.4 shall be effected with an insurer with a financial security rating of "A-" or better by Standard & Poors

(or the equivalent rating with another recognised rating agency), or an insurer approved by the Commonwealth, acting reasonably.

- 6.4.9 The Contractor shall, on request, produce evidence satisfactory to the Commonwealth Representative or Authorised Officer (as applicable), acting reasonably, of the currency and terms of the insurances referred to in this clause 6.4.
- 6.4.10 In respect of each insurance referred to in this clause 6.4, the Contractor shall:
- a. promptly inform the Commonwealth if it becomes aware of any actual, threatened or likely claims (with the exception of claims or potential claims by the Commonwealth against the Contractor) which could materially reduce the available limits of indemnity or which may involve the Commonwealth, and shall reinstate or replace any depleted aggregate limit of indemnity resulting from claims that are unrelated to the work under the Deed or any SPA, if requested to do so in writing by the Commonwealth; and
 - b. do everything reasonably required by the Commonwealth to enable the Commonwealth to claim and to collect or recover monies due under any insurance policy.

7 WARRANTIES

7.1 Fitness for Purpose

- 7.1.1 The Contractor shall ensure and warrants that any Services provided under this Deed and any SPA shall be fit for the purpose or purposes for which Services of that kind would be reasonably expected to be applied by the Commonwealth.

7.2 Warranty

- 7.2.1 The Contractor warrants that it has the necessary expertise, experience, capacity and capability required to perform the Services in accordance with a standard of care, skill and diligence that would be exercised by a competent supplier of such Services and that the Services shall conform with the requirements of this Deed and any SPA.
- 7.2.2 The Contractor shall remedy any errors or defects in the Services notified to the Contractor by the Authorised Officer during the Warranty Period specified in the Details Schedule.
- 7.2.3 The liability of the Contractor to remedy errors or defects under clause 7.2.2 by the Contractor shall not apply to the extent that the defect arises from the Commonwealth's negligent or wilful damage of the Services.
- 7.2.4 The Contractor, unless the Authorised Officer otherwise allows, shall meet all costs of, and incidental to, the discharge of the warranties under this clause 7.2.
- 7.2.5 The Contractor acknowledges that the Commonwealth enters into the Deed in reliance on the Contractor's warranties in this clause 7.2, and the Contractor's skill and judgement in rendering the Services.
- 7.2.6 If the Contractor fails, within 30 days after notification by the Authorised Officer, to rectify an error or a defect pursuant to this clause 7.2, the Commonwealth may, without limiting the Contractor's warranties and obligations under clause 7, perform or have performed the necessary remedial work at the expense of the Contractor, and may recover such expense as a debt due to the Commonwealth in accordance with clause 10.3.
- 7.2.7 The rights and remedies provided in this clause 7.2 are in addition to, and shall not limit, any other rights of the Commonwealth under the Deed or otherwise.

8 DEED MANAGEMENT

8.1 Change to the Deed and SPA

- 8.1.1 Either party may propose a change to the Deed. The Deed may only be changed in writing and signed by the Commonwealth Representative and the Contractor.
- 8.1.2 A change to the Deed shall take effect on the date on which the change is signed by the parties in accordance with clause 8.1.1, or if signed on separate days, the date of the last signature.

- 8.1.3 The Commonwealth Representative may issue an amendment to the Deed to incorporate any changes that have taken effect under clause 8.1.1. The amendment does not affect the legal status of the change as determined under clause 8.1.1.
- 8.1.4 The parties shall not be liable to each other for any additional work undertaken or expenditure incurred unless the change is in accordance with this clause 8.1.
- 8.1.5 An SPA shall not be amended without the prior written consent of the Participant.

8.2 Transition-in and Transition-out Services

- 8.2.1 The Contractor must perform:
 - a. Transition-in Services in accordance with the Transition-in Plan; and
 - b. all other tasks reasonably required to facilitate the smooth transition of the provision of the Services from any outgoing provider to the Contractor.
- 8.2.2 If the Deed expires or is terminated under clause 10, the Contractor must:
 - a. perform Transition-out Services in accordance with the Transition-out Plan; and
 - b. comply with any reasonable directions given by the Commonwealth to facilitate the smooth transition of the provision of the Services to the Commonwealth, the new provider, or to another supplier nominated by the Commonwealth.

8.3 Measurement and Reporting

- 8.3.1 The Contractor shall provide to the Commonwealth Representative on a quarterly basis, a written report which details:
 - a. the number of SPAs entered into for the previous quarter;
 - b. the total value of SPAs;
 - c. a breakdown of the number of SPAs for each Salary Sacrifice category;
 - d. any rejected Services and the reasons for the rejection;
 - e. timeliness of customer enquiry handling/responsiveness timeframes;
 - f. any failures to deliver the Services in accordance with the Deed or any SPA and the reasons for that failure; and
 - g. any such details reasonably requested by the Commonwealth from time to time.

8.4 Performance Assessment

8.4.1

8.4.2

s 47(1)

8.4.3

8.4.4

s 47(1)

8.5 Waiver

8.5.1 Failure by either party to enforce a term of the Deed shall not be construed as in any way affecting the enforceability of that provision, or the Deed as a whole.

8.6 Confidential Information

8.6.1 If, in connection with the Deed or any SPA, Confidential Information is provided or produced by any person, the relevant party shall ensure that any person receiving or producing the information protects the confidential nature of the information except:

- a. if disclosure of the information is required by law or statutory or portfolio duties; or
- b. to the extent that the Commonwealth would be prevented from exercising any of its IP rights under the Deed.

8.6.2 If it is necessary to disclose Confidential Information, provided or produced by or on behalf of the other party, to a third party, other than a legal adviser or for a purpose within an exception listed in clause 8.6.1, the party wishing to make the disclosure must obtain the written consent of the other party to the Deed.

8.6.3 The Contractor shall, if required by the Commonwealth, ensure that Contractor Personnel, Subcontractors and Subcontractor Personnel engaged in, or on their commencement of, the performance of the Services give a written undertaking in the form of (for non-AFP Appointees) Attachment H (Deed Poll of Confidentiality) and for AFP Appointees, Attachment I (Deed of Personal Obligation) to the Commonwealth prior to the disclosure of Confidential Information.

8.6.4 The parties agree that only the Deed clauses listed in Attachment E are Confidential Information for the relevant party. The Contractor shall not, in marking information supplied to the Commonwealth, misuse the term 'Confidential Information' or the Contractor's equivalent. The marking of information as 'Confidential Information' or equivalent is not determinative as to whether the information is Confidential Information for the purposes of the Deed.

8.6.5 The Contractor agrees to deliver to the Commonwealth, as required by the Commonwealth, all documents in its possession, power or control which contain or relate to any information that is Confidential Information of the Commonwealth on the earlier of:

- a. demand by the Commonwealth; or
- b. the time the documents and other material are no longer required for the purposes of the Deed or any SPA.

8.6.6 If the Commonwealth makes a demand under clause 8.6.5, and the Contractor has placed or is aware that documents containing the Confidential Information are beyond its possession or control, then the Contractor shall provide full particulars of the whereabouts of the documents containing the Confidential Information, and the identity of the person in whose custody or control they lie.

8.6.7 The Contractor, when directed by the Commonwealth in writing, agrees to destroy any document in its possession, power or control which contain or relate to any Confidential Information.

8.6.8 Return or destruction of the documents referred to in this clause 8.6 does not release the Contractor from its obligations under the Deed or any SPA.

8.7 Sharing of Information with Permitted Agencies

8.7.1 Notwithstanding anything else in this Deed, the Commonwealth and Permitted Agencies eligible to use these Deed arrangements may share information between themselves on any

matters relating to the Contractor's performance, or capacity to perform, under the Deed or any SPA.

8.8 Assignment and Novation

- 8.8.1 Neither party may, without the prior written consent of the other, assign in whole or in part, its rights under the Deed or any SPA.

8.9 Negation of Employment and Agency

- 8.9.1 The Contractor shall not represent itself, and shall ensure that Contractor Personnel, Subcontractors and Subcontractor Personnel do not represent themselves, as being employees, partners or agents of the Commonwealth.
- 8.9.2 Without limiting clause 8.9.1, the Contractor shall clearly identify itself, and shall ensure that the Contractor Personnel, Subcontractors and Subcontractor Personnel clearly identify themselves, as a contractor to the Commonwealth when communicating through telephone, facsimile, email or any other communication tool in the course of performing the Services.
- 8.9.3 The Contractor, Contractor Personnel, Subcontractors and Subcontractor Personnel shall not by virtue of the Deed or any SPA, be, or for any purpose be deemed to be, an employee, partner or agent of the Commonwealth.

8.10 Commonwealth Access

- 8.10.1 The Contractor shall permit the Commonwealth Representative or any person authorised by the Commonwealth Representative access to its premises, and access to any of its records or accounts relevant to or impacting on the performance of work under the Deed or any SPA. The Commonwealth may copy any records or accounts for the purposes of the Deed or any SPA.
- 8.10.2 Without limiting clauses 8.10.1, and 8.10.3, the Contractor acknowledges and agrees that:
- a. the Auditor-General has the power under the *Auditor-General Act 1997* (Cth) to conduct audits (including performance audits) of the Contractor and Subcontractors in relation to the Deed or SPA;
 - b. the Auditor-General may give a copy of, or an extract from, a report on an audit in relation to the SPA to any person (including a Minister) who, in the Auditor-General's opinion, has a special interest in the report or the content of the extract; and
 - c. the Commonwealth Representative may authorise the Auditor-General, or member of the staff of the Australian National Audit Office, to access premises, records and accounts under clauses 8.10.1 or 8.10.2.
- 8.10.3 Without limiting the generality of clauses 8.10.1 or 8.10.4, the purposes for which the Commonwealth Representative or any person authorised by the Commonwealth Representative may require access include:
- a. investigating the reasonableness of proposed prices or costs in relation to any SPA;
 - b. determining whether and to what extent steps should be taken to register or otherwise protect Commonwealth IP;
 - c. investigating, monitoring or assessing the Contractor's compliance with the provision of the Services and obligations under this Deed in relation to security, confidentiality, privacy and notifiable data breach;
 - d. monitoring the Contractor's WHS and environmental compliance in connection with the provision of the Services; and
 - e. assessing the financial viability of the Contractor to perform and complete any SPA.
- 8.10.4 If the Contractor enters into a Subcontract in accordance with clause 8.12, the Contractor shall ensure the Subcontracts require Subcontractors to give the Commonwealth Representative, and any person authorised by the Commonwealth Representative, access to Subcontractors' premises, and to records and accounts in connection with the performance of work under the Subcontract, including the right to copy.

- 8.10.5 The Commonwealth shall comply with, and shall require any delegate or person authorised by the Commonwealth Representative to comply with, any reasonable Contractor or Subcontractor safety and security requirements or codes of behaviour for the premises.

8.11 Contractor Access

- 8.11.1 Subject to compliance with Commonwealth's security policies, the Commonwealth shall allow the Contractor and Contractor Personnel access to Commonwealth Premises for the purpose of performing the Services.
- 8.11.2 The Contractor shall comply with, and require persons afforded access under this clause 8.11 to comply with, any relevant Commonwealth safety and security requirements, regulations, standing orders, or codes of behaviour for the Commonwealth Premises.
- 8.11.3 The Commonwealth retains the right to deny access on occasions to the Contractor and Contractor Personnel because of safety and security arrangements or as a result of failure by the Contractor or Contractor Personnel to comply with clause 8.13.
- 8.11.4 The Contractor acknowledges that it may be provided with the ability to access Commonwealth-held information in connection with its performance of the Services, including through access to Commonwealth information technology systems. Without limiting the Contractor's other obligations under this Deed or any SPA or otherwise at law, the Contractor shall not seek to access or use Commonwealth-held information except to the extent strictly required for the provision of the Services.

8.12 Subcontracts

- 8.12.1 The Contractor shall not Subcontract the whole of the work under the Deed or any SPA. The Contractor shall not Subcontract any part of the work under the SPA without the prior written approval of the Commonwealth Representative.
- 8.12.2 The Contractor, by subcontracting any part of the work for any SPA or by obtaining the Commonwealth Representative's approval of a Subcontractor, shall not be relieved of its liabilities or obligations, and shall be responsible for all Subcontractors.
- 8.12.3 Without limiting the Contractor's obligations under the Contract, the Contractor shall ensure that:
- a. the requirements of clauses 3.1, 4.2.2, 8.9, 9.1, 9.3 and 9.7 are included in all Subcontracts;
 - b. each Subcontractor that requires access to any Commonwealth Premises or to security classified information is subject to the requirements of clause 8.13;
 - c. the requirements of clauses 8.11, 8.13 and 8.14, are included in all Subcontracts; and
 - d. the Contractor obtains rights, in each Subcontract, that are equivalent to the rights of the Commonwealth under 10.3.
- 8.12.4 The Contractor shall not enter into a Subcontract for any SPA with a Subcontractor named by the Workplace Gender Equality Agency as an employer currently not complying with the *Workplace Gender Equality Act 2012* (Cth).
- 8.12.5 The Contractor, if requested by the Commonwealth Representative, shall provide the Commonwealth Representative with names of all Subcontractors and a copy of any Subcontract, which copy need not contain prices. The Contractor acknowledges and shall inform its Subcontractors that the Commonwealth may be required to publicly disclose the Subcontractors' participation in the performance of any SPA.

8.13 Security

- 8.13.1 If the Contractor requires access to any Commonwealth Premises under the control or responsibility of the Commonwealth, the Contractor shall:
- a. comply with any security requirements (including those contained in the PSPF) notified to the Contractor by the Commonwealth Representative from time to time; and
 - b. ensure that Contractor Personnel, Subcontractors and Subcontractor Personnel are aware of and comply with the Commonwealth's security requirements.

8.13.2 The Contractor shall:

- a. ensure that Contractor Personnel, Subcontractors and Subcontractor Personnel undertake any security checks, clearances or accreditations as required by the Commonwealth, at their own expense ;
- b. promptly notify the Commonwealth Representative of any changes to circumstances which may affect the Contractor's capacity to provide Services in accordance with the Commonwealth's security requirements; and
- c. provide a written undertaking in respect of security or access to the Commonwealth Premises in the form required by the Commonwealth.

8.13.3 The security classification of the information and assets accessible to the Contractor and work to be performed under the Deed will be up to and including the level specified in the Details Schedule. The Contractor shall:

- a. ensure that all data be stored and remain in Australia;
- b. comply with the classification and protection of official information requirements of the Commonwealth; and
- c. ensure that all required personnel (if any) possess a personnel security clearance at the level specified in the Details Schedule, and comply with the requirements and procedures of the Commonwealth.

8.13.4 With respect to security classified information, the Contractor shall:

- a. ensure that no security classified information furnished or generated under the Deed or any SPA shall be released to a third party, including a representative of another country, without prior written approval of the originator through the Commonwealth Representative;
- b. promptly report to the Commonwealth Representative any security incident, as defined under the Commonwealth's security policy framework , including instances in which it is known or suspected that security classified information furnished or generated under the Deed or any SPA has been lost or disclosed to unauthorised parties, including a representative of another country; and
- c. ensure that all security classified information transmitted between the parties or a party and a Subcontractor, in Australia, whether generated in Australia or overseas, shall be subject to the terms under the Commonwealth's security policy framework.

8.13.5 In clauses 8.13.6 to 8.13.8, the following definitions apply:

- a. **AFP Act** means the *Australian Federal Police Act 1979* (Cth);
- b. **AFP Appointee** has the same meaning given in the AFP Act;
- c. **Business Day** means a day that is not a Saturday, Sunday, or public holiday in the Australian Capital Territory;
- d. **Commissioner** means the Commissioner of the Australian Federal Police (including their delegates);
- e. **Determination** means a determination by the AFP Commissioner under section 35 of the AFP Act;
- f. **Positive Test Result** means a result of Testing for Prohibited Drugs demonstrating the presence of a prohibited drug;
- g. **Testing for Prohibited Drugs** means the testing described in clause 8.13.7, conducted in accordance with the form of consent at **Attachment J** (Consent Form to Participate in Testing for Prohibited Drugs).

8.13.6 Organisational Suitability Assessment

- a. The AFP may, in its sole and absolute discretion, require the Contractor, or one or more of the Contractor Personnel, to submit to an organisational suitability assessment (OSA).

- b. If any Contractor Personnel refuse to submit to an OSA required under clause 8.13.6(a), the Contractor must ensure that person is not engaged in, or is otherwise immediately removed from, the provision of the Services.
- c. c. Where the Contractor or Contractor Personnel agree to submit to an OSA, and the AFP requires an interview as part of the OSA process, the AFP will:
 - (i) make the necessary interview arrangements;
 - (ii) be responsible for the costs of conducting the OSA; and
 - (iii) reimburse reasonable travel and accommodation expenses incurred by the Contractor or Contractor Personnel in attending the OSA interview, where those expenses are substantiated to the AFP's reasonable satisfaction.
- d. Following the conduct of an OSA, the AFP will notify the Contractor of whether the Contractor or Contractor Personnel have been assessed as:
 - (i) suitable to provide the Services;
 - (ii) suitable to provide the Services subject to such conditions, or further actions, as required by the AFP; or
 - (iii) not suitable to provide the Services.
- e. The AFP will not be:
 - (i) required to substantiate or otherwise provide any reasons where it assesses Contractor Personnel as not suitable; or
 - (ii) liable in any way in respect of any claims by the Contractor or any Contractor Personnel in connection with that OSA.
- f. The Contractor must not provide, for the provision of the Services, any Contractor Personnel who:
 - (i) will not comply with any conditions, or courses of action, required by the AFP under clause 8.13.6(d)(ii);
 - (ii) will not comply with any other conditions imposed by the AFP; or
 - (iii) have been assessed as not suitable to provide the Services.
- g. If the Contractor refuses to participate in an OSA, comply with any conditions or actions required by the AFP under clause 8.13.6(d)(ii), or the AFP assesses the Contractor as not suitable to provide the Services under clause 8.13.6(d)(iii), the AFP may terminate this Contract immediately by giving the Contractor a notice of termination for default under clause 10.2.1.

8.13.7 Testing for Prohibited Drugs

- a. Where required by the AFP, the Contractor must ensure Contractor Personnel:
 - (i) execute a consent form substantially in the form of Attachment J;
 - (ii) participate in Testing for Prohibited Drugs; and
 - (iii) comply with any direction of the AFP in relation to the conduct of Testing for Prohibited Drugs.
- b. The AFP will:
 - (i) bear the costs of conducting Testing for Prohibited Drugs; and
 - (ii) not be liable to pay any fee or compensation to the Contractor or Contractor Personnel for their participation in Testing for Prohibited Drugs in accordance with clause 8.13.7(a).
- c. If the Contractor or any Contractor Personnel refuse to comply with the requirements of clause 8.13.7(a), or return a Positive Test Result, the AFP may, in its sole and absolute discretion:
 - (i) require the removal of the Contractor Personnel under clause 3.2.2; or

- (ii) terminate this Contract immediately under clause 10.2.1.

8.13.8 AFP Appointee Determinations

- a. The Contractor acknowledges and agrees that each of its Contractor Personnel are consultants or independent contractors for the purposes of section 35(1) of the AFP Act, and may be subject to a Determination.
- b. During the Deed Term, the Commissioner may make a Determination.
- c. If the Commissioner makes a Determination, the Contractor must, as soon as practical:
 - (i) inform the subject of the Determination that a Determination has been made; and
 - (ii) obtain two executed Deeds of Personal Obligation (substantially in the form of Attachment I) from the subject of the Determination, and provide those Deeds to the Commissioner for countersignature (following which, the Commissioner will return one copy to the subject for their records, and retain the other).
- d. The Contractor must provide any assistance reasonably required by the AFP in ensuring the subject of a Determination complies with their obligations as an AFP Appointee.
- e. If the subject of a Determination is either unable, or unwilling, to sign a Deed of Personal Obligation as required under this clause 8.13.8, the AFP may require the subject to be removed from work in relation to the provision of the Services under clause 3.2.2.
- f. The Contractor acknowledges the AFP's Commissioner's Order on Covid-19 Vaccinations (CO10) and the AFP National Guideline on Covid-19 Mandatory Vaccinations which provides all AFP Appointees must be vaccinated with two doses of a Covid-19 vaccine and any further dose of a Covid-19 vaccine necessary to maintain up to date vaccination status in order to perform the Services. The Contractor warrants all Contractor Personnel who are AFP Appointees are vaccinated with at least two doses of a Covid-19 vaccination.

8.13.9

- a. If there has been a breach by the Contractor, Contractor Personnel, a Subcontractor, or Subcontractor Personnel under clause 8.13, the Commonwealth Representative may give the Contractor a notice of termination for default under clause 10.2.1, which may take immediate effect.

8.14 Conflict of Interest

8.14.1 The Contractor:

- a. warrants that, to the best of its knowledge after making diligent inquiries at the Effective Date specified in the Details Schedule, no conflict of interest exists or is likely to arise in the performance of its obligations under the Deed or any SPA by itself or by any Contractor Personnel, Subcontractors or Subcontractor Personnel; and
- b. shall promptly notify the Commonwealth in writing if such a conflict of interest arises, or appears likely to arise.

8.14.2 Within five Working Days after giving notice under clause 8.14.1, the Contractor shall notify the Commonwealth, in writing, of the steps the Contractor will take to resolve the issue. If the Commonwealth considers those steps are inadequate, it may direct the Contractor to resolve the issue in a manner proposed by the Commonwealth.

8.14.3 If the Contractor fails to notify the Commonwealth in accordance with clauses 8.14.1 or 8.14.2 or is unable or unwilling to resolve the issue in the required manner, the Commonwealth may terminate the Deed and any SPA in accordance with clause 10.2.

8.15 Post Separation Employment

8.15.1 Except with the prior written Approval of the Commonwealth Representative, the Contractor shall not permit any Commonwealth Personnel or Commonwealth Service Providers who, at any time during the preceding 12 month period were engaged or involved in:

- a. the preparation or management of the Deed;

- b. the assessment or selection of the Contractor; or
 - c. the planning or performance of the procurement or any activity relevant or related to the Deed,
- to perform or contribute to the performance of the Deed or any SPA.
- 8.15.2 To avoid doubt, the 12 month period referred to in clause 8.15.1 applies from the date which is 12 months before the date on which the Contractor proposes that the person start performing or contributing to the performance of the Deed or any SPA.
- 8.15.3 The Commonwealth Representative shall not unreasonably withhold approval under clause 8.15.1 and, in making a decision, shall consider:
 - a. the character and duration of the engagement, services or work that was performed by the person during the relevant 12 month period;
 - b. any information provided by the Contractor about the character and duration of the services proposed to be performed by the person under the Deed or any SPA;
 - c. the potential for real or perceived conflicts of interest or probity concerns to arise if the person performs or contributes to the performance of the Deed or any SPA in the manner proposed under 8.15.1, and the arrangements which the Contractor proposes to put in place to manage or reduce those conflicts of interest or probity concerns;
 - d. any information provided by the Contractor concerning any significant effect that withholding approval will have on the person's employment or remuneration opportunities or the performance of the Deed or any SPA; and
 - e. the policy requirements set out in DI ADMINPOL Annex C AG5 and the *Integrity Policy Manual* (or any Permitted Agency's equivalent), as applicable.

8.16 Engagement and Non-Publicity

- 8.16.1 The Contractor acknowledges and agrees, that it, Contractor Personnel, a Subcontractor and Subcontractor Personnel (to the extent that any of those persons provide Services to the AFP under this Deed) (Personnel):
 - a. are engaged by the AFP to provide Services under this Deed as consultants and/or independent contractors, pursuant to section 35(1) of the *Australian Federal Police Act 1979* (Cth) (AFP Act); and
 - b. must comply with section 60A (Secrecy) of the AFP Act, and any other provision of the AFP Act applicable to its provision of Services.
- 8.16.2 The Contractor must not, without the prior written consent of the AFP:
 - a. use the AFP's name or logo;
 - b. suggest any endorsement by the AFP, including noting the AFP as a client of the Contractor, on advertising or promotional material;
 - c. make any public announcement or issue any media release about this Deed;
 - d. identify the AFP as a client or customer of the Contractor; or
 - e. discuss with (or communicate to) a third party, any aspect of this Deed, including any Services that it provides to the AFP.

9 POLICY AND LAW

9.1 Governing Law

- 9.1.1 The laws of the jurisdiction specified in the Details Schedule shall apply to the Deed and any SPA. The courts of that State or Territory shall have non-exclusive jurisdiction to decide any matter arising out of the Deed or any SPA.
- 9.1.2 The Contractor shall, in the performance of the Deed or any SPA, comply with and ensure Contractor Personnel, Subcontractors and Subcontractor Personnel comply with the laws from time to time in force in the State, Territory, or other jurisdictions (including overseas) in which

any part of the SPA is to be carried out.

9.1.3 The Contractor shall provide to the Commonwealth Representative within 10 Working Days after a request by the Commonwealth written confirmation that, to the best of the Contractor's knowledge and based on reasonable enquiries undertaken by the Contractor, the Contractor, Contractor Personnel, Subcontractors and Subcontractor Personnel are compliant with all laws (including foreign anti-corruption legislation) regarding the offering of unlawful inducements in connection with the performance of the Deed and any SPA and Subcontracts.

9.1.4 The Contractor:

- a. shall take all reasonable measures to prevent, detect and investigate any fraud that may occur, is occurring or has occurred under the Deed, any SPA or any Subcontract; and,
- b. acknowledges and agrees that its obligation in clause 9.1.4a extends to taking all reasonable measures to prevent, detect and investigate any fraud which has or may be committed by Contractor Personnel.

If the Contractor knows that any fraud is occurring or has occurred, it shall, as soon as practicable, provide written details to the Commonwealth, and provide such further information and assistance as the Commonwealth, or any person authorised by the Commonwealth, reasonably requires in relation to the fraud.

9.1.5 The *United Nations Convention on Contracts for the International Sale of Goods* shall not apply to the SPA.

9.2 Compliance with laws

9.2.1 The Contractor acknowledges that in providing the Services to the Commonwealth under the Contract, it is a 'contracted service provider' for the purposes of the *National Anti-Corruption Commission Act 2022* (Cth) (NACC Act).

9.2.2 The Contractor must comply with any reasonable request, policy or direction issued by the Commonwealth and otherwise cooperate with the Commonwealth in relation to any action taken by the Commonwealth required or authorised by the NACC Act.

9.3 Policy Requirements

9.3.1

s 47(1)

9.3.2

9.3.3

9.3.4

9.3.5

s 47(1)

9.3.6

s 47(1)

9.3.7

9.3.8

9.4 Work Health and Safety

9.4.1 The Commonwealth and the Contractor:

- a. shall, where applicable, comply with, and the Contractor shall ensure that all Subcontractors comply with, the obligation under the WHS Legislation to, so far as is reasonably practicable, consult, co-operate and co-ordinate activities with the Commonwealth, the Contractor or the Subcontractors (as the case may be) and any other person who, concurrently with the Commonwealth, the Contractor or the Subcontractor (as the case may be), has a WHS duty under the WHS Legislation in relation to the same matter; and
- b. acknowledge that they have a duty under the applicable WHS Legislation to ensure, so far as is reasonably practicable, the health and safety of:
 - (i) Commonwealth Personnel;
 - (ii) Contractor Personnel and Subcontractor Personnel; and
 - (iii) other persons,
 in connection with the Services.

9.4.2 The Contractor represents and warrants that:

- a. it has given careful, prudent and comprehensive consideration to the WHS implications of the work to be performed by it under the Deed and any SPA; and

- b. the proposed method of performance of that work complies with, and includes a system for identifying and managing WHS risks which complies with, all applicable legislation relating to WHS including the applicable WHS Legislation.
- 9.4.3 The Contractor shall:
 - a. provide the Services in such a way that the Commonwealth and Commonwealth Personnel are able to undertake any roles or obligations in connection with the Services (such as in relation to testing or auditing); and
 - b. ensure that the Commonwealth and Commonwealth Personnel are able to make full use of the Services for the purposes for which they are intended, and to maintain, support and develop the Services,

without the Commonwealth or Commonwealth Personnel contravening any legislation relating to WHS including the applicable WHS Legislation, any applicable standards relating to WHS or any policy relating to WHS identified in the Deed or any SPA.
- 9.4.4 Without limiting the Contractor's obligations under the Deed or any SPA or at law or in equity (and subject to any relevant foreign government restrictions), the Contractor shall, in connection with or related to the Services, provide, and shall use its reasonable endeavours to ensure that a Subcontractor provides, to the Commonwealth Representative within 10 Working Days (or such other period as agreed by the Commonwealth in writing) of a request by the Commonwealth Representative any information or copies of documentation requested by the Commonwealth Representative and held by the Contractor or Subcontractor (as the case may be) to enable the Commonwealth to comply with its obligations under the WHS Legislation.
- 9.4.5 Subject to clause 8.13 and any relevant foreign government restrictions, the Commonwealth shall provide to the Contractor in a timely manner any information or copies of documentation reasonably requested by the Contractor and held by the Commonwealth to enable the Contractor to comply with its obligations under the applicable WHS Legislation in relation to the Deed or any SPA.
- 9.4.6 To the extent not inconsistent with the express requirements of the Deed or any SPA, the Commonwealth Representative may direct the Contractor to take specified measures that the Commonwealth Representative considers reasonably necessary to comply with applicable legislation relating to WHS including the WHS Legislation in relation to the provision of the Services. The Contractor shall comply with the direction unless the Contractor demonstrates to the reasonable satisfaction of the Commonwealth Representative that it is already complying with the WHS Legislation in relation to the matter to which the direction relates or the direction goes beyond what is reasonably necessary to achieve compliance with the WHS Legislation.
- 9.4.7 The Contractor shall not use ACM in providing the Services and shall not take any ACM onto Commonwealth Premises in connection with providing the Services.
- 9.4.8 Unless the Commonwealth Representative otherwise agrees in writing, the Contractor shall:
 - a. ensure that any deliverable provided to the Commonwealth in connection with the Services does not contain a Problematic Substance; and
 - b. not use, handle or store a Problematic Substance on Commonwealth Premises in connection with the Services.
- 9.4.9 Where the Commonwealth Representative agrees that a deliverable may contain a Problematic Substance or that the Contractor may use, handle or store a Problematic Substance on Commonwealth Premises, the Contractor shall ensure that:
 - a. full details of the Problematic Substances are provided to the Commonwealth Representative in the format of a SDS, except where the applicable SDS exists within the Australian ChemAlert database and the Contractor identifies that SDS to the Commonwealth Representative by reference to its unique record within that database; and
 - b. the Problematic Substance is correctly labelled and packaged (including to clearly identify the nature of the substance and its associated hazards) in accordance with

Australian legislative and regulatory requirements, and that all documentation supporting the Services clearly identifies the nature of the substance and its associated hazards.

- 9.4.10 If a Notifiable Incident occurs in connection with work carried out under the Deed or any SPA:
- a. on Commonwealth Premises;
 - b. which involves Commonwealth Personnel; or
 - c. which involves a Commonwealth specified system of work,
- the Contractor shall:
- d. immediately report the incident to the Commonwealth;
 - e. promptly provide the Commonwealth with copies of any notices or other documentation provided to, or issued by, the relevant Commonwealth, State or Territory regulator in relation to the Notifiable Incident;
 - f. provide the Commonwealth with such other information as may be required by the Commonwealth to facilitate the notification to or investigation by the Commonwealth regulator of the Notifiable Incident in accordance with the WHS Legislation (as amended or replaced from time to time); and
 - g. provide other reasonable assistance required by the Commonwealth to undertake mandatory incident reporting.
- 9.4.11 From time to time the Commonwealth may advise the Contractor of hazards to health and safety that have been identified at, or in the proximity of, Commonwealth Premises where Contractor Personnel and / or Subcontractor Personnel may be working.
- 9.4.12 On receipt of advice from the Commonwealth under clause 9.4.11, the Contractor shall undertake necessary risk assessments, identify control measures and advise Contractor Personnel and/or Subcontractor Personnel of the hazards and risks and relevant control measures.

9.5 Environmental Obligations

- 9.5.1 The Contractor shall perform its obligations under the Deed and any SPA in such a way that:
- a. the Commonwealth is not placed in breach of; and
 - b. the Commonwealth is able to support and to make full use of the Services for the purposes for which they are intended without being in breach of,
- any applicable environmental legislation including the *Environment Protection and Biodiversity Conservation Act 1999* (Cth).

9.6 Severability

- 9.6.1 If any part of the Deed is or becomes illegal, invalid or unenforceable, the legality, validity or enforceability of the remainder of the Deed, as applicable, shall not be affected and shall be read as if that part had been severed.

9.7 Privacy

- 9.7.1 The Contractor shall:
- a. if it obtains Personal Information in the course of performing the Deed or any SPA, use or disclose that Personal Information only for the purposes of the Deed or that SPA subject to any applicable exemptions in the *Privacy Act 1988* (Cth);
 - b. comply with its obligations under the *Privacy Act 1988* (Cth); and
 - c. as a contracted service provider, not do any act or engage in any practice which, if done or engaged in by the Commonwealth, would be a breach of the Australian Privacy Principles.
- 9.7.2 The Contractor shall notify the Commonwealth as soon as reasonably practicable if:

- a. it becomes aware of a breach or possible breach of any of the obligations contained, or referred to, in this clause 9.7, whether by the Contractor, Subcontractor or any other person to whom the Personal Information has been disclosed for the purposes of the Deed or any SPA; or
 - b. in relation to Personal Information obtained in the course of performing the Deed or any SPA:
 - (i) it becomes aware that a disclosure of such Personal Information may be required by law; or
 - (ii) it is approached by the Privacy Commissioner.
- 9.7.3 The Contractor shall ensure that Contractor Personnel, Subcontractors and Subcontractor Personnel who deal with Personal Information for the purposes of the Deed or any SPA are aware of, and comply with, this clause 9.7.

9.8 Eligible Data Breaches

- 9.8.1 If, in relation to any Personal Information it holds through performing the Services, the Contractor becomes aware of reasonable grounds for suspecting there may have been an Eligible Data Breach, the Contractor must:
- a. notify the Commonwealth in writing as soon as it becomes aware of a possible Eligible Data Breach, which must be no later than three days of becoming aware; and
 - b. unless otherwise directed by the Commonwealth, carry out an assessment in accordance with the requirements of the *Privacy Act 1988* (Cth).
- 9.8.2 Where, in relation to any Personal Information the Contractor holds through performing the Services:
- a. the Contractor becomes aware of reasonable grounds for suspecting there has been an Eligible Data Breach; or
 - b. the Commonwealth notifies the Contractor there has been an Eligible Data Breach, the Contractor must:
 - c. take all reasonable action to mitigate the risk of the Eligible Data Breach causing serious harm to any of the individuals to whom the Personal Information relates;
 - d. unless otherwise directed by the Commonwealth, take all other action necessary to comply with the requirements of the *Privacy Act 1988* (Cth); and
 - e. take any other action as reasonably directed by the Commonwealth.
- 9.8.3 In clauses 9.7 and 9.8, the terms **Eligible Data Breach** and **Personal Information** have the meanings given in section 6 of the Privacy Act.
- 9.8.4 This clause 9.8 does not limit any security obligations the Contractor may have under the Law or under this Deed.

10 DISPUTES AND TERMINATION

10.1 Resolution of Disputes

- 10.1.1 If a dispute arising between the Commonwealth and the Contractor cannot be settled by negotiation (including negotiation between senior management of the parties) within 30 days, the parties may agree to use an alternative dispute resolution process to attempt to resolve the dispute.
- 10.1.2 The parties shall continue to perform under the Deed and any SPA when there is a dispute.

10.2 Termination for Contractor Default

- 10.2.1 The Commonwealth may, in addition to any other right or remedy it may have, terminate the Deed by notice in writing to the Contractor, if:

- a. an Insolvency Event occurs, except to the extent the exercise of a right under this clause 10.2.1a is prevented by law;
- b. the Contractor commits any breach for which the Deed or any SPA provides a notice of termination for default may be given;
- c. the Contractor fails to take action to remedy a default by the Contractor of another obligation to be performed or observed under the Deed or any SPA within 10 Working Days of being given notice in writing by the Commonwealth Representative or the Authorised Officer, to do so or, if action is taken within 10 Working Days, the Contractor fails to remedy the default within the period specified in the notice;
- d. the Contractor breaches any of its obligations under clause 9.4; or
- e. the Contractor fails to obtain or maintain any Authorisation required to enable it to comply with its obligations under the Deed or any SPA, except to the extent that the failure was outside the Contractor's reasonable control;

10.2.2 If the Deed is terminated under this clause or otherwise:

- a. Unless otherwise specified in this Deed (including its attachments), or as otherwise required by law, the Contractor shall deliver to the Commonwealth, or otherwise handle as directed by the Commonwealth, all documents in its possession, power or control or in the possession, power or control of the Contractor Personnel or Subcontractors and Subcontractor Personnel, which contain or relate to any Personal Information (as collected in accordance with this Deed), Confidential Information, security classified documents or any other material generated in delivery of this Deed and the Services;
- b. subject to clause 10.5, the parties shall be relieved from future performance, in respect of the Deed, without prejudice to any right of action that has accrued at the date of termination;
- c. rights to recover damages, including full contractual damages, shall not be affected;
- d. the Contractor shall deliver to the Commonwealth the TD for Services provided prior to the date of termination, within 30 days of receipt of the notice of termination, or other period agreed by the parties; and
- e. the Contractor shall return to the Commonwealth all CMCA in its possession, power or control or in the possession, power or control of the Contractor Personnel, Subcontractors or Subcontractor Personnel.

10.2.3 The Commonwealth may also terminate the Deed by written notice if:

- a. the Contractor has persistently failed to meet its obligations under the Deed or any SPA; or
- b. in the Commonwealth's reasonable opinion, even though any breaches may have been remedied on each occasion, the cumulative effect of these breaches is sufficient for the Commonwealth to conclude that the Contractor cannot be relied upon to provide the Services required by the Commonwealth and the relationship between the parties is no longer workable.

10.3 Termination for Convenience

10.3.1 In addition to any other rights it has under the Deed, the Commonwealth may at any time terminate the Deed by notifying the Contractor in writing.

10.3.2 If the Commonwealth Representative issues a notice under clause 10.3.1, the Contractor shall:

- a. stop or reduce work in connection with any current SPAs in accordance with the notice;
- b. comply with any directions given to the Contractor by the Commonwealth (including in relation to handling of Personal Information, Confidential Information, security classified documents or any other material generated in delivery of this Deed and the Services); and

- c. mitigate all loss, costs (including the costs of its compliance with any directions) and expenses in connection with the termination or reduction, including those arising from affected Subcontracts.
- 10.3.3 The Commonwealth shall only be liable for any reasonable costs incurred by the Contractor that are directly attributable to the termination or reduction, if the Contractor substantiates these amounts to the satisfaction of the Commonwealth Representative.
- 10.3.4 The Contractor shall not be entitled to any profit anticipated on any part of the Deed or SPA terminated or reduced for convenience.

10.4 Right of Commonwealth to Recover Money

- 10.4.1 Without limiting the Commonwealth's other rights or remedies under the Deed or at law, if the Contractor owes any debt to the Commonwealth in relation to the Deed or any SPA, the Commonwealth may do one or both of the following:
 - a. deduct the amount of the debt from payment of any claim; or
 - b. give the Contractor written notice of the existence of a debt recoverable which shall be paid by the Contractor within 30 days of receipt of notice.
- 10.4.2 If any sum of money owed to the Commonwealth is not received by its due date for payment, the Contractor shall pay to the Commonwealth interest at the General Interest Charge Rate current at the date the payment was due for each day the payment is late.

10.5 Survivorship

- 10.5.1 Any provision of the Deed or any SPA which expressly or by implication from its nature is intended to survive the termination or expiration of the Deed and any rights arising on termination or expiration shall survive, including provisions relating to Commonwealth Access, Confidential Information, Privacy, Notifiable Data Breach, Intellectual Property, Commonwealth Security and any warranties, guarantees, licences, indemnities or financial and performance securities given under the Deed.

OFFICIAL

ASDEFCON (Standing Offer For Services)

DEED NO: P230572

EXECUTED AS A DEED by

SIGNED, SEALED and DELIVERED on behalf of
THE COMMONWEALTH OF AUSTRALIA as represented by the
AUSTRALIAN FEDERAL POLICE ABN 17 864 931 143 by:

s 47E(c)	DAVID WHALAN T/C MANALAN BUSINESS SERVICES	21 DEC 2023
(signature of delegate)	(print name and position of delegate)	(date)

In the presence of:

s 22(1)(a)(ii)	s 22(1)(a)(ii)	21/12/2023
(signature of witness)	(print name of witness)	(date)

SIGNED, SEALED and DELIVERED by

MAXXIA PTY LTD ACN 082 449 036 / ABN 39 082 449 036 in accordance with the requirements of
section 127 of the *Corporations Act 2001* (Cth) by:

s 22(1)(a)(ii)	s 22(1)(a)(ii)	8/12/2023
(signature of director)	(printed name of director)	(date)
s 22(1)(a)(ii)	s 22(1)(a)(ii)	8/12/2023
(signature of director/secretary)	(printed name of director/secretary)	(date)

ANNEX B

ATTACHMENTS TO THE NEW DEED OF STANDING OFFER FOR SALARY PACKAGING ADMINISTRATION SERVICES

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ATTACHMENT A. STATEMENT OF REQUIREMENTS

s 47(1)

THE DOCUMENT IS RELEASED BY
THE AUSTRALIAN FEDERAL POLICE
UNDER THE FREEDOM OF INFORMATION ACT 1982

ATTACHMENT G. GLOSSARY

1. ACRONYMS AND ABBREVIATIONS

Abbreviation	Description
ABN	Australian Business Number
ACM	Asbestos Containing Material
ACN	Australian Company Number
ADF	Australian Defence Force
AIC	Australian Industry Capability
ANZ	Australia and New Zealand
ARBN	Australian Registered Body Number
ASD	Australian Signals Directorate
ATO	Australian Taxation Office
CASG	Capability, Acquisition and Sustainment Group
COD	Conditions of Deed
COT	Conditions of Tender
CMCA	Contractor Managed Commonwealth Assets
COMSEC	Communications Security
CPI	Consumer Price Index
CPRs	Commonwealth Procurement Rules – 14 Dec 2020
DI ADMINPOL	Defence Instruction Administrative Policy
DSPF	Defence Security Principles Framework
EID	Employee Identification
FBT	Fringe Benefits Tax
GST	Goods and Services Tax
GFM	Government Furnished Material
IPP	Indigenous Procurement Policy
IP	Intellectual Property
ISO	International Standards Organisation
MEC	Multiple Entry Consolidated
SDS	Safety Data Sheet
SOR	Statement of Requirements
SPA	Salary Packaging Agreement
STR	Statement of Tax Record
TD	Technical Data
WHS	Work Health and Safety

2. DEFINITIONS

Term	Definition
Account Manager	means the person who is appointed by the Contractor to manage all contractual matters and as specified at COD Attachment A
Act	is a reference to an Act of the Commonwealth, State or Territory of Australia, as amended from time to time, and includes a reference to any subordinate legislation made under the Act
Adjustment	means the process by which fees and charges are revised in accordance with COD Attachment D.
Adjustment Date	means each anniversary of the Effective Date, starting from the second anniversary of the Effective Date.
Adjustment Formula	is the formula specified at COD Attachment D
Asbestos Containing Material	has the meaning given in subregulation 5(1) of the <i>Work Health and Safety Regulations 2011</i> (Cth).
Australian Privacy Principles	has the same meaning as in the <i>Privacy Act 1988</i> (Cth)
Authorisation	means a licence, accreditation, permit, registration, regulatory approval or other documented authority (however described), required by law and necessary for the provision of the Services.
Authorised Officer	means any person nominated in accordance with clause 2.2 of the COD, or, if no Authorised Officer has been nominated, means the Commonwealth Representative.
Background IP	means IP, other than Third Party IP, that: a. is in existence at the Effective Date or is subsequently brought into existence other than as a result of the performance of the Deed or a Contract; and b. is embodied in, or attaches to, the Services, or is otherwise necessarily related to the functioning or operation of the Services.
Base Date	means the Effective Date.
Business Hours	means from 8.00am to 5.00pm on a Working Day at the place where the Services are to be provided, unless specified otherwise in the Details Schedule.
Confidential Information	means information (whether or not owned by the Commonwealth) that meets all of the following criteria: a. is specifically identified at Attachment E; b. is commercially sensitive; c. disclosure would cause unreasonable detriment to the owner of the information or another party; and d. was provided with an express or implied understanding that it would remain confidential, e. but does not include information which: f. is or becomes public knowledge other than by breach of the Deed or any

	SPA; g. is in the possession of a party without restriction in relation to disclosure before the date of receipt; or h. has been independently developed or acquired by the receiving party.
Commonwealth Personnel	means any officers, personnel or agents of the Commonwealth and includes AFP Appointees as defined in the <i>Australian Federal Police Act 1979</i> (Cth).
Commonwealth Premises	means any of the following that is owned or occupied by the Commonwealth: a. an area of land or any other place (whether or not it is enclosed or built on); b. a building or other structure; and c. a vehicle, vessel or aircraft.
Consolidated Group	means a Consolidated Group or a MEC group as those terms are defined in section 995-1 of the <i>Income Tax Assessment Act 1997</i> (Cth).
Contractor Personnel	means any officers, personnel or agents of the Contractor.
day	means a calendar day.
Deed	means the COD, the Attachments and any document expressly incorporated as part of the Deed.
document	includes: a. any paper or other materials on which there are writing, marks, figures, symbols or perforations having meaning for persons qualified to interpret them; and b. any article or material from which sound, images, or writings are capable of being reproduced with or without the aid of any other article or device.
Effective Date	means the date on which this Deed commences, as specified at Item 1 of the Details Schedule.
Employee	means AFP Appointees as defined in the <i>Australian Federal Police Act 1979</i> (Cth)
Expiration/Expiry Date	means the end of the Initial Term, or any subsequent Term, as the case may be.
Foreground IP	means IP which is created under or otherwise in connection with the Deed or an SPA, other than Third Party IP.
FBT Year	means the period from 1 April to 31 March each year, or any other period set by the ATO for measuring a year for FBT purposes.
GST Act	means <i>A New Tax System (Goods and Services Tax) Act 1999</i> and associated taxation legislation. The expressions "adjustment note", "taxable supply" "taxable importation" and "tax invoice" have the meanings given to those expressions in the GST Act.
GST Group	means a GST group formed in accordance with Division 48 of the GST Act.
Insolvency Event	means, in respect of a person: a. the person becoming bankrupt or insolvent; b. the person becoming subject to one of the forms of external administration provided for in Chapter 5 of the <i>Corporations Act 2001</i>, including: (i) the appointment of a person to administer a scheme or

	compromise in relation to the person in accordance with Part 5.1 of the <i>Corporations Act 2001</i>; (ii) the appointment of a controller or managing controller to the whole or any part of the assets or undertakings of the person in accordance with Part 5.2 of the <i>Corporations Act 2001</i>; (iii) the appointment of an administrator under Part 5.3A of the <i>Corporations Act 2001</i> in relation to the person; or (iv) the appointment of a liquidator or provisional liquidator in relation to the person; c. the person becoming subject to any form of administration under the laws of a non-Australian jurisdiction which is the same as, or substantially equivalent to, one of those referred to in clause b of this definition; d. the person is wound up by resolution or an order of the court; e. the person suffers execution against any of its assets which has an adverse effect on the Contractor's ability to perform its obligations under the Contract; f. the person makes an assignment of its estate for the benefit of creditors or enters into any arrangement or composition with its creditors; g. the person becomes an insolvent under administration; or h. the person ceases to carry on business.
Intellectual Property	means all copyright and all rights in relation to inventions (including patent rights), registered and unregistered trademarks (including service marks), registered and unregistered designs, confidential information and circuit layouts, and any other rights resulting from intellectual activity in the industrial, scientific, literary and artistic fields recognised in domestic law anywhere in the world.
Leases	means as the context requires, motor vehicle Lease
month	means a calendar month.
Moral Rights	means: a. a right of attribution of authorship; b. a right not to have authorship falsely attributed; or c. a right of integrity of authorship.
Motor Vehicle Insurance	means: (i) comprehensive motor vehicle insurance as described in COD Attachment A; and (ii) compulsory third party insurance.
Notifiable Incident	has the meaning given in sections 35 to 37 of the <i>Work Health and Safety Act 2011</i> (Cth).
Novation Agreement	means an agreement entered into between the Commonwealth a financial institution and the employee for the novated lease.
Official Bank Account	means the bank account established by the Commonwealth as described in Item 8 of the Details Schedule.
Ozone Depleting Substances	means any substance identified as having ozone depleting potential in the <i>Ozone Protection and Synthetic Greenhouse Gas Management Act 1989</i> (Cth) or any regulations made under that Act.

Panel	means a panel of suppliers established by the Commonwealth to provide Services of the kind set out in the Deed.
Participant	means an Employee that has an SPA with the Contractor for any of the salary packaging services described at COD Attachment A.
Performance Assessment	means the self-assessment undertaken by the Contractor against the Performance Measures set out in Attachment C.
Performance Management Framework	means the process undertaken by Commonwealth in managing the Contractor's performance as set out in clause 8.3.2 of the COD.
Performance Measures	means the standards of Service the Contractor must achieve in providing the Services, as set out at Attachment C
Problematic Substance	means: a. any substance identified as having ozone depleting potential, or any gas identified as a Synthetic Greenhouse Gas, in the <i>Ozone Protection and Synthetic Greenhouse Gas Management Act 1989</i> (Cth) or any regulations made under that Act; b. any dangerous goods as defined in the <i>Australian Code for the Transport of Dangerous Goods by Road and Rail</i> (extant edition and as amended from time to time); or c. any hazardous chemicals as defined in subregulation 5(1) of the <i>Work Health and Safety Regulations 2011</i> (Cth).
Related Body Corporate	has the meaning given by section 9 of the <i>Corporations Act 2001</i> (Cth).
Relevant Employer	means an employer who has been a Relevant Employer under the Workplace Gender Equality Procurement Principles for a period of not less than 6 months. The Contractor will continue to be obligated as a Relevant Employer until the number of its personnel falls below 80.
Salary Packaging Agreement or SPA	means an arrangement between the Contractor and a Participant for the provision of salary packaging services
Services	means the services and goods provided to the Employee and specified in the Deed and provided under an SPA, including documents, equipment, reports, Intellectual Property, Technical Data, plans, charts, drawings, calculations, tables, schedules, models, software, information and data stored by any means, that are: a. brought, or required to be brought into existence, as part of, or for the purposes of performing the Services; b. incorporated in, supplied, or required to be supplied along with the Services; or c. copied or derived from the material provided.
Subcontractor	means any person, other than the Commonwealth, that for the purposes of a Contract, furnishes goods or services to the Contractor or indirectly to the Contractor through another person; and "Subcontract" has a corresponding meaning.
Subcontractor Personnel	means any officers, personnel or agents of a Subcontractor.
Technical Data	means all technical know-how and information reduced to material form produced, acquired or used by the Contractor or Subcontractors in relation to the Services and includes all data, databases, manuals, handbooks, designs, standards, specifications, reports, writings, models, sketches, plans, drawings,

	calculations, training materials, source code, software design data, test results, software and software updates and other items describing or providing information relating to the Services or their operations.
Term	means the period determined in accordance with COD clause 1.3.
Third Party IP	means that IP which is owned by a person other than the Commonwealth or the Contractor and is embodied in the Services, or attached to the Services or is otherwise necessarily related to the functioning or operation of the Services, and is limited to commercial off the shelf and military off the shelf items.
Transition-in Plan	means the plan prepared by the Contractor in accordance with Attachment A paragraph 4.
Transition-out Plan	means the plan prepared by the Contractor in accordance with Attachment A paragraph 5.
Website	means a Contractor-managed website that – (a) relates to salary packaging services offered to Commonwealth Employees; and (b) has the specifications and provides the facilities described at paragraphs 11.5 to 11.8 of COD Attachment A.
WHS Legislation	means: a. the <i>Work Health and Safety Act 2011</i> (Cth) and the <i>Work Health and Safety Regulations 2011</i> (Cth); and b. any corresponding WHS law as defined in section 4 of the <i>Work Health and Safety Act 2011</i> (Cth).
Working Day	in relation to the doing of an action in a place, means any day in that place other than: a. Saturday, Sunday or public holiday; and b. any day within the two-week period that starts on: (i) the Saturday before Christmas Day; or (ii) if Christmas Day falls on a Saturday, Christmas Day.

3. REFERENCED DOCUMENTS

Reference	Description
AFP Act	<i>Australian Federal Police Act 1979 (Cth)</i>
	<i>Auditor-General Act 1997 (Cth)</i>
	<i>Australian Consumer Law (Schedule 2 to the Competition and Consumer Act 2010) (Cth)</i>
Black Economy Procurement Connected Policy	<i>Black Economy Procurement Connected Policy – Increasing the integrity of government procurement – March 2019.</i>
	CASG Cost Principles, as amended from time to time.
CPRs	Commonwealth Procurement Rules – 14 Dec 2020
	<i>Complaints and Alternative Resolutions Manual</i>
	<i>Criminal Code (Cth)</i>
GST Act	<i>A New Tax System (Goods and Services Tax) Act 1999 (Cth)</i>
	<i>Incident Reporting and Management Manual</i>
	<i>Integrity Policy Manual</i>
IPP	<i>Commonwealth Indigenous Procurement Policy – July 2015.</i> A copy of the IPP is available from: https://www.niaa.gov.au/resource-centre/indigenous-affairs/commonwealth-indigenous-procurement-policy
	<i>Privacy Act 1988 (Cth)</i>
PGPA Act	<i>Public Governance, Performance and Accountability Act 2013</i>
PGPA Rule	<i>Public Governance, Performance and Accountability Rule 2014</i>
PSPF	<i>Protective Security Policy Framework</i>
WHS Act	<i>Work Health and Safety Act 2011 (Cth)</i>
WHS Regulations	<i>Work Health and Safety Regulations 2011 (Cth)</i>
	<i>Workplace Gender Equality Act 2012 (Cth)</i>
	<i>Workplace Gender Equality Procurement Principles</i>

ATTACHMENT H. DEED POLL OF CONFIDENTIALITY



DEED POLL OF CONFIDENTIALITY

I, _____ of _____ ,
(Name) (Residential Address)

make this Deed Poll ('Deed') in favour of

THE COMMONWEALTH OF AUSTRALIA AS REPRESENTED BY THE AUSTRALIAN FEDERAL POLICE (ABN 17 864 931 143)

I **Acknowledge** and **Agree** to the following:

1. Whilst providing services or assistance to or otherwise engaging with the Australian Federal Police ('AFP'), I may become aware of information, including personal information, which may be:
 - a. confidential;
 - b. subject to the *Privacy Act 1988* (Cth); or
 - c. subject to Commonwealth secrecy laws, including section 60A of the *Australian Federal Police Act 1979* (Cth) ('AFP Act').
2. This information is referred to as 'AFP information' for the purposes of this Deed.
3. I understand that improper access, use or disclosure of AFP information could severely damage the reputation of the AFP or its officers, or the AFP's ability to perform its statutory functions, and may constitute a criminal offence.
4. Unless expressly authorised by the AFP I agree, including further to section 60A of the AFP Act, not to use, disclose, communicate or record AFP information other than for the Permitted Purposes set out below except where:
 - a. reasonably necessary and authorised by the AFP;
 - b. disclosure is required by law or legally binding order of any court, government, semi-government authority, administrative or judicial body; or
 - c. disclosure is after the relevant AFP information becomes public knowledge, in circumstances where there was no breach of any obligation of confidence.
5. If the AFP grants authorisation under paragraph 4.a., conditions may be imposed and, in any event, I will only disclose AFP information in these circumstances to those persons that have a demonstrated need to know.

6. I agree to abide by the information security requirements contained within the Australian Government's Protective Security Policy Framework and I undertake to accord the appropriate degree of protection to:
 - a. all information which I am notified of; and
 - b. information which a reasonable person would understand to be intended to be the subject of national or international security restrictions or regulations.
7. I may be considered to be an AFP Appointee or consultant or independent contractor under the AFP Act, a Commonwealth officer and/or a Commonwealth public official as defined in the *Criminal Code Act 1995* (Cth).
8. I understand that the confidentiality obligations as set out in this Deed are ongoing and survive the cessation of mine or my organisation's engagement, arrangement or relationship with the AFP.

EXECUTED as a Deed Poll

SIGNED SEALED AND DELIVERED)

)

.....

(Print Name)

)

)

)

)

in the presence of:

)

)

)

)

.....

(Print Name of Witness)

)

.....

(Signature of Witness)

ATTACHMENT I. CONSENT FORM TO PARTICIPATE IN TESTING FOR PROHIBITED DRUGS

PLEASE READ THE FOLLOWING BEFORE SIGNING THIS CONSENT FORM

- **Why is testing for prohibited drugs necessary?**

The AFP has in place a policy of prohibition on the use of illicit drugs by AFP personnel and persons providing services to the AFP. This is in recognition of the serious effect of illicit drugs on modern-day society and of the importance of the AFP, as a law enforcement agency, being committed to the highest standards of personal integrity and professionalism.

To ensure that the AFP's workplace remains drug-free, your employer or prime-contractor ('employer'), in the course of providing services to the AFP, has agreed to participate in this testing process.

- **What does the testing process involve?**

You may be selected to undertake a test for prohibited drugs at any time during the course providing services to the AFP. Typically, this involves an initial test either before or around the time of commencing work on AFP premises. Subsequent tests may be random and will usually take place during your normal working hours.

The testing process is carried out in accordance with Australian Standard AS 4308 — 1995 (as amended or replaced from time to time), and includes the provision of a body sample of a kind specified by the AFP. A sample is most likely to be the provision of a urine sample. An information sheet about the collection and testing process will be provided to you once you have been selected to participate in a test.

- **What is the testing process designed to detect?**

The test is intended to detect prohibited drugs, meaning any unlawful drug including cannabis, cocaine, heroin, amphetamines and psychotropic substances.

- **Am I required to sign this Consent Form and participate in this testing process?**

Although you have the option not to participate in the testing process, it is a prerequisite if you wish to provide goods or services to the AFP. Your employer has agreed that all its personnel undertaking work for, or on behalf of, the AFP will participate in testing for prohibited drugs.

A refusal or failure by you to participate in the testing process or undergo a test at any time will entitle the AFP to deny or withdraw your authorisation to perform work for, or on behalf of, the AFP.

- **What If I return a positive test result for prohibited drugs?**

Prior to any action being taken in relation to a positive test result, all such results will be reviewed by the AFP's Medical Review Officer and Medical/Science Panel. This may include re-analysis of the sample to confirm whether the positive result is considered a verified positive result.

A verified positive result means traces of prohibited drug(s) were detected by the testing process and this will entitle the AFP to have your suitability for continued delivery of goods to the AFP re-assessed. This will usually mean the AFP will refuse to allow you to provide goods to the AFP or remain on AFP premises.

- **Will the AFP inform my employer if I return a positive test result or I do not participate as required?**

A positive test result or your refusal or failure to participate in the testing process will entitle the AFP to prevent you from providing goods to the AFP. By signing this consent form, you agree that the AFP will inform your employer of these details. It is necessary to inform your employer because the AFP will need to let your employer know that you are not entitled to provide any further goods to the AFP.

At no time will the AFP request that your employer terminate your employment or engagement with them. The AFP will merely request that you not perform work for, or on behalf of, the AFP. It is a matter for your employer to determine your general employment suitability in any other capacity.

- **Will I be criminally investigated if I return a positive test result?**

Although it is unlikely that the AFP will undertake a criminal investigation in relation to a positive test result, each case will be dealt with on its merits taking into account the relevant circumstances and current public policy requirements.

- **How is my privacy protected in relation to participating in this testing process?**

The AFP values the privacy of individuals and the AFP will at all times comply with the *Privacy Act 1988* (Cth), including the Australian Privacy Principles (APPs) in relation to the testing process and your test results. All personal information collected under the testing process will be used only in accordance with the *Privacy Act 1988* (Cth) and for determining your suitability for providing services to the AFP.

Records relating to this testing process will be retained for a period of 7 years from the end of your employer's contract period in accordance with the *Archives Act 1983* (Cth) and the Administrative Functions Disposal Authority (as amended or replaced from time to time).

Please refer to www.oaic.gov.au for more information on your privacy rights under the *Privacy Act 1988* (Cth).

- **What if I wish to dispute a positive test result?**

You may challenge the results of a positive drug result. Two separate tamper-proof samples are taken at the time of the collection process, and you have the right to have the unanalysed sample independently tested. The AFP will meet the cost for the laboratory testing of this sample, but this does not include any other associated expenses.

TO BE COMPLETED BY PERSON REQUIRED TO PARTICIPATE IN TESTING PROCESS

I acknowledge that I have read and understood the above information.

I agree to participate in the AFP's testing for prohibited drugs process as described above during the course of providing services to, or on behalf of, the AFP for determining my suitability as a provider of goods to the AFP.

I consent to the AFP informing my employer of the test results of any prohibited drug test I am required to undergo, as well as details of any failure or refusal by me to properly participate in the testing process.

Full Name: _____

(Block Letters)

Signature: _____

Date: ____/____/____

ATTACHMENT J. DEED OF PERSONAL OBLIGATION

THIS DEED is made at on day of 202#

BETWEEN

COMMONWEALTH OF AUSTRALIA as represented by the Australian Federal Police ('Commonwealth' or 'AFP') established under the *Australian Federal Police Act 1979* (Cth) ('the AFP Act') (ABN 17 864 931 143)

AND

[NAME] of [address] ('you')

YOUR STATUS AS AN AFP APPOINTEE

You have been engaged as a consultant or independent contractor under an agreement between the AFP and [insert Company Name] ('the Service Provider') entered into on [insert date] 202# for the provision of [insert description of Services] ('the Contract').

You acknowledge that you are not an employee of the AFP but are providing services to the AFP:

- as a consultant or independent contractor performing services for the AFP under section 35(1) of the *Australian Federal Police Act 1979* (Cth) (AFP Act); and
- in your capacity as an employee, officer, contractor, subcontractor and/or agent of the Service Provider ('Specified Personnel') pursuant to the Contract.

The terms and conditions for the provision of your services are set out in the Contract and this Deed.

In signing this Deed, the Commissioner's delegate has determined that you are an AFP Appointee under section 35(2) of the AFP Act. As an AFP Appointee, you are subject to:

- **AFP Code of Conduct**
- **AFP complaints reporting, investigation, management and resolution process**
- **AFP professional standards and security requirements**
- **AFP Commissioner's Orders and other relevant instructions and rules issued under the AFP Governance Framework**

YOUR HANDLING OF CONFIDENTIAL INFORMATION

In the course of providing services to the AFP, you acknowledge that you may become aware of information (including personal information) that may be:

- confidential;
- subject to section 60A of the AFP Act;

- subject to the *Privacy Act 1988* (Cth); or
- subject to Commonwealth secrecy laws.

This information is referred to as 'AFP information' for the purposes of this Deed.

You acknowledge that section 60A of the AFP Act applies to you and is a specific secrecy provision which protects any information which you obtain in the course of providing services to the AFP. You also acknowledge that you are considered to be a Commonwealth Officer and/or a Commonwealth Public Official as defined in the *Criminal Code 1995* (Cth).

You understand that improper access, use or disclosure of AFP information may severely damage the reputation of the AFP or the AFP's ability to perform its statutory functions and may constitute a criminal offence.

You acknowledge and agree that unless expressly authorised by the AFP, you must not access, use, disclose, communicate or record AFP information except in the course of:

- providing services to the AFP; or
- undertaking AFP duties, functions or powers.

The AFP may grant an authorisation subject to conditions and, you agree to comply with those conditions. In addition to complying with the conditions of any authorisation imposed by the AFP, you also agree that you will only disclose or communicate AFP information to those persons that have a demonstrated need to know.

You agree to abide by all the information security requirements contained in the Australian Government's Protective Security Policy Framework and undertake to accord the appropriate degree of protection to:

- all information which you are notified of; and
- information intended to be the subject of national or international security restrictions or regulations.

CONSENT TO DISCLOSE AND EXCHANGE INFORMATION

You acknowledge and agree that whilst providing services or assistance to the AFP pursuant to the Contract as a Specified Personnel, the AFP may disclose or exchange information with, or to, the Service Provider and other third parties in connection with, or related to, the performance or provision of your services or assistance to the AFP.

In signing this document you acknowledge and agree that:

1. you are not an employee of the AFP but are providing services to the AFP pursuant to section 35(1) of the AFP Act as a consultant or independent contractor;
2. this Deed of Personal Obligation is a determination that you are an AFP Appointee under section 35(2) of the AFP Act;

3. you will comply with your obligations in respect of non-disclosure of AFP information, the AFP Code of Conduct and professional standards referred to in this Deed; and
4. your obligations and rights as an AFP Appointee, and otherwise under this Deed, are ongoing and their applicability does not depend on whether you continue to provide services in connection with the Contract, or to work with the AFP.

EXECUTED as a Deed

SIGNED SEALED AND DELIVERED
on behalf of the **COMMONWEALTH
OF AUSTRALIA** as represented by
the Australian Federal Police by

.....
(Print Name of AFP Act
section 35(1) and (2) delegate)

in the presence of:

.....
(Print Name of Witness)

.....
(Signature) (Date)

.....
(Signature of Witness)

SIGNED SEALED AND DELIVERED by

.....
(Print Name of Specified Personnel)

in the presence of:

.....
(Print Name of Witness)

.....
(Signature) (Date)

.....
(Signature of Witness)



AFP
AUSTRALIAN FEDERAL POLICE

DEED OF VARIATION (DoV2)

BETWEEN

THE COMMONWEALTH OF AUSTRALIA

AS REPRESENTED BY THE AUSTRALIAN FEDERAL POLICE
(ABN 17 864 931 143)

AND

MAXXIA PTY LTD

(ABN 39 082 449 036, ACN 082 449 036)

THIS DEED OF VARIATION (DoV2) is made

BETWEEN

THE COMMONWEALTH OF AUSTRALIA as represented by the Australian Federal Police (ABN 17 864 931 143) of GPO Box 401, CANBERRA CITY ACT 2601 (**Commonwealth** or **AFP**)

AND

MAXXIA PTY LTD (ABN 39 082 449 036, ACN 082 449 036) of Level 21 360 Elizabeth Street, MELBOURNE VIC 3000 (**Contractor**)

RECITALS

- A. The Commonwealth of Australia as represented by the Department of Defence (**Defence**) established a panel for the provision of salary packaging administration services (**Panel**) which may be accessed by Commonwealth Permitted Agencies.
- B. The AFP is a Permitted Agency.
- C. With reference to clause 1.14.2 [Multi Agency Access] of the Contractor's Panel Deed with Defence, the AFP and the Contractor entered into a New Deed effective from 2 February 2024, and varied that Deed of Standing Offer by:
 - i. Deed of Variation 1 dated 19 February 2024,
together, the "**Agreement**".
 - ii. The Parties now wish to amend the Agreement as set out in this Deed of Variation (DoV2).

NOW IT IS AGREED AS FOLLOWS:

1. INTERPRETATION

1.1 Unless the context requires otherwise:

- a. all terms which are given a defined meaning in the Agreement have the same meaning in this Deed;
- b. all references to clauses, items, and schedules, are to clauses, items, and schedules in the Agreement; and
- c. all rules of interpretation set out in the Agreement apply equally to this Deed.

1.2 If there is an inconsistency between the terms of this Deed, and the Agreement, the terms of this Deed will prevail to the extent of the inconsistency.

- 1.3 Any provision of the Agreement which is not varied either expressly, or by necessary implication, by this Deed continues to operate unaffected by this Deed.

2. VARIATION

- 2.1 The terms of the Agreement are amended as follows:

- a. the table at Attachment D (Fees and Charges), is deleted in its entirety and replaced with the table below:

Item Description	GST Exclusive Amount	GST Inclusive Amount	Frequency
Administration Fees			
Novated lease	s47(1)		Fortnightly per vehicle
All other salary packaging items (number of items not relevant)			Fortnightly
Other Fees			
Financier Document Fee (<i>Note: This fee is only incurred when establishing a new novated lease. This is not a Maxxia fee and is imposed by the financier</i>)			One Time

3. COUNTERPARTS

- 3.1 This Deed may be executed in any number of counterparts which, taken together, will constitute one document.

4. MISCELLANEOUS

- 4.1 This Deed is governed by the laws of the Australian Capital Territory.
- 4.2 Each Party submits to the exclusive jurisdiction of the Supreme Court of the Australian Capital Territory and of any court that may hear appeals from it, for any proceedings in connection with this Deed, or any matter arising out of the interpretation, or operation, of this Deed.
- 4.3 This Deed takes effect from 2 March 2024.
- 4.4 Each party shall bear its own costs, and expenses, arising out of, and incidental to, the negotiation, preparation, execution, and delivery, of this Deed.
- 4.5 Each party must promptly, at its own cost, do all things (including executing all documents) either necessary, or desirable, to give full effect to this Deed.
- 4.6 If any provision of this Deed is either void, or otherwise unenforceable:

- a. that provision will be given a reading which most closely reflects the provision's original intention without being void, or otherwise unenforceable; or
- b. if the provision cannot be read in accordance with paragraph a, the provision will be severed from this Deed, and the remainder of this Deed will remain in force.

THE DOCUMENT IS RELEASED BY
THE AUSTRALIAN FEDERAL POLICE
UNDER THE FREEDOM OF INFORMATION ACT 1982

EXECUTED as a Deed

Signed sealed and delivered by the **COMMONWEALTH OF AUSTRALIA** as represented by the **AUSTRALIAN FEDERAL POLICE**

Miles Humphrey
Name of Authorised Representative

s 47E(c)
Signature of Authorised Representative

s 22(1)(a)(ii)
Name of Witness

s 22(1)(a)(ii)
Signature of Witness

28/03/2024
Date

Signed sealed and delivered by **MAXXIA PTY LTD** (ACN 082 449 036) in accordance with section 127 of the *Corporations Act 2001* (Cth):

s 22(1)(a)(ii)
Name of Director

s 22(1)(a)(ii)
Signature of Director

Name of Director/Secretary
(delete one)

Signature of Director/Secretary
(delete one)

27-03-2024
Date

Date



AFP
AUSTRALIAN FEDERAL POLICE

DEED OF VARIATION 1

BETWEEN

THE COMMONWEALTH OF AUSTRALIA
AS REPRESENTED BY THE AUSTRALIAN FEDERAL POLICE
(ABN 17 864 931 143)

AND

MAXXIA PTY LTD
(ABN 39 082 449 036, ACN 082 449 036)

THIS DEED OF VARIATION 1 is made

BETWEEN

THE COMMONWEALTH OF AUSTRALIA as represented by the Australian Federal Police (ABN 17 864 931 143) of GPO Box 401, CANBERRA CITY ACT 2601 (**Commonwealth** or **AFP**)

AND

MAXXIA PTY LTD (ABN 39 082 449 036, ACN 082 449 036) of Level 21 360 Elizabeth Street, MELBOURNE VIC 3000 (**Contractor**)

RECITALS

- A. The Commonwealth of Australia as represented by the Department of Defence (**Defence**) established a panel for the provision of salary packaging administration services (**Panel**) which may be accessed by Commonwealth Permitted Agencies.
- B. The AFP is a Permitted Agency.
- C. With reference to clause 1.14.2 [Multi Agency Access] of the Contractor's Panel Deed with Defence, the AFP and the Contractor entered into a New Deed effective from 2 February 2024 (**Agreement**).
- D. The Parties now wish to amend the Agreement as set out in this Deed of Variation 1.

NOW IT IS AGREED AS FOLLOWS:

1. INTERPRETATION

- 1.1 Unless the context requires otherwise:
 - a. all terms which are given a defined meaning in the Agreement have the same meaning in this Deed;
 - b. all references to clauses, Items, and schedules, are to clauses, items, and schedules in the Agreement; and
 - c. all rules of interpretation set out in the Agreement apply equally to this Deed.
- 1.2 If there is an inconsistency between the terms of this Deed, and the Agreement, the terms of this Deed will prevail to the extent of the inconsistency.
- 1.3 Any provision of the Agreement which is not varied either expressly, or by necessary implication, by this Deed continues to operate unaffected by this Deed.

2. VARIATION

2.1 The terms of the Agreement are amended as follows:

- a. in the Details Schedule at the Information Table, **delete** the row titled 'Item 8 (Official Bank Accounts)' and **replace** as follows:

Item 8	Bank Account	
<i>(paragraphs 6 and 7.3.a.ii of Attachment A; Items 6, 14 and 15 of Attachment B; Item 14 of Attachment C)</i>		<i>Maxxia to establish its own Bank Account</i>

b.

c.

s 47(1)

THE DOCUMENT IS RELEASED BY
THE AUSTRALIAN FEDERAL POLICE
UNDER THE FREEDOM OF INFORMATION ACT 1982

d.

e.

f.

s 47(1)

g.

h.

- i. at clause 2 (Definitions) of Attachment G (Glossary), **delete** in its entirety the row titled 'Official Bank Account' and insert a new definition for 'Bank Account' (as follows) between the current definitions of 'Background IP' and 'Base Date':

Bank Account	means the bank account established by the Contractor as described in Item 8 of
---------------------	--

	the Information Table in the Details Schedule.
--	--

3. COUNTERPARTS

- 3.1 This Deed may be executed in any number of counterparts which, taken together, will constitute one document.

4. MISCELLANEOUS

- 4.1 This Deed is governed by the laws of the Australian Capital Territory.
- 4.2 Each Party submits to the exclusive jurisdiction of the Supreme Court of the Australian Capital Territory and of any court that may hear appeals from it, for any proceedings in connection with this Deed, or any matter arising out of the interpretation, or operation, of this Deed.
- 4.3 This Deed takes effect from the date the last party executes this Deed.
- 4.4 Each party shall bear its own costs, and expenses, arising out of, and incidental to, the negotiation, preparation, execution, and delivery, of this Deed.
- 4.5 Each party must promptly, at its own cost, do all things (including executing all documents) either necessary, or desirable, to give full effect to this Deed.
- 4.6 If any provision of this Deed is either void, or otherwise unenforceable:
- a. that provision will be given a reading which most closely reflects the provision's original intention without being void, or otherwise unenforceable; or
 - b. if the provision cannot be read in accordance with paragraph a, the provision will be severed from this Deed, and the remainder of this Deed will remain in force.

EXECUTED as a Deed

Signed sealed and delivered by the **COMMONWEALTH OF AUSTRALIA** as represented by the **AUSTRALIAN FEDERAL POLICE**

Miles Humphrey
Name of Authorised Representative

s 47E(c)
Signature of Authorised Representative

s 22(1)(a)(ii)
Name of Witness

s 22(1)(a)(ii)
Signature of Witness

19/2/2024
Date

Signed sealed and delivered by **MAXXIA PTY LTD** (ACN 082 449 036) in accordance with section 127 of the *Corporations Act 2001* (Cth):

s 22(1)(a)(ii)
Name of Director

s 22(1)(a)(ii)
Signature of Director

16 February 2024
Date