

# SERVICES PANEL DEED

Date

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Parties

**AUSTRALIAN CAPITAL TERRITORY**

**[INSERT FULL NAME OF  
PANEL MEMBER INCLUDING ACN IF  
COMPANY OR ABN]**

**[INSERT BRIEF DESCRIPTION OF  
SERVICES]**

Prepared by

[Insert Directorate]  
[Insert Address 1]  
[Insert Address 2]  
[Insert Address 3]  
Ph: [Insert]  
Fax: [Insert]  
Ref: [INITIALS]:[FILE NO]

Version

[Draft/Final INSERT DATE]

[Template: Services Panel Deed – client version – December 2020]

**[Note to users:** This Deed should only be used to establish a panel of providers of services. It is not suitable to use to establish a panel of providers of goods, software, website design or other ICT components, or for any construction or ongoing maintenance of assets. Any text in red is for your attention. When using this template to prepare a deed you will need to complete and/or follow any user prompts and also read the instructional notes.  
**DELETE** this note, all prompts and other notes before finalising the deed].

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**PARTIES:** **AUSTRALIAN CAPITAL TERRITORY**, the body politic established by section 7 of the *Australian Capital Territory (Self-Government) Act 1988* (Cth) (**Territory**) represented by the [INSERT name of Directorate / Agency].

[INSERT FULL NAME, INCLUDING ACN FOR A COMPANY OR ABN FOR OTHER ORGANISATION AND CHECK IT IS A LEGAL ENTITY] of [INSERT address (of registered office if for a company)] (**Contractor**).

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## BACKGROUND

- A. The Territory has undertaken a procurement process to establish a panel of potential contractors which it may invite to respond to requests to deliver Services from time to time.
- B. The Contractor is a member of the panel. The parties are entering into this Deed to acknowledge the appointment of the Contractor to the panel and to set out the terms and conditions of that appointment and for the provision of Services.
- C. From time to time the Territory may purchase and, if selected to provide Services, the Contractor has agreed to provide the Services in accordance with the provisions of this Deed and the relevant work order.

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**IT IS AGREED** by the parties as follows.

## 1. Interpretation

### 1.1 Definitions

The following definitions apply in this Deed, unless the context otherwise requires.

**Confidential Text** any text of this Deed that, for the purposes of the Procurement Act, either party proposes should not be published and which is specified in **Item 6 Schedule 1**.

**Contract Material** all material created, written or otherwise brought into existence as part of, or for the purpose of performing the Services including all reports (whether in draft or final form), documents, information and data stored by any means.

**Contract Officers** in relation to each party, the representatives whose names and contact details are specified in **Item 1 Schedule 1**, or as notified from time to time by one party to the other.

<b>Contract Price</b>	the amount payable to the Contractor for the provision of Services in accordance with this Deed and the relevant Work Order, as specified in, or calculated in accordance with, the relevant Work Order.
<b>Contractor Material</b>	all material owned by the Contractor and used for the purpose of providing the Services, including documents, information and data stored by any means.
<b>Information Privacy Act</b>	the <i>Information Privacy Act 2014</i> (ACT).
<b>Insolvency Event</b>	<p>(1) in respect of a natural person:</p> <p>(a) any orders, agreements or arrangements are made in respect of the affairs of the person in accordance with the <i>Bankruptcy Act 1966</i> (Cth); or</p> <p>(b) in the reasonable opinion of the Territory the person is likely to be declared bankrupt or lose control of the management of their financial affairs; or</p> <p>(2) in respect of all other entities:</p> <p>(a) any of the events listed in sub-sections 459C(2)(a) to (f) of the <i>Corporations Act 2001</i> (Cth) occur in respect of the entity; or</p> <p>(b) any other event occurs which, in the reasonable opinion of the Territory is likely to result, or has resulted, in the:</p> <p>(i) insolvency;</p> <p>(ii) winding up; or</p> <p>(iii) appointment of a controller (as that term is defined in the <i>Corporations Act 2001</i> (Cth)) in respect of part or all of the property,</p> <p>of the entity.</p>

For the purposes of subparagraph 2(b), subsections 459C(2)(a) to (f) *Corporations Act 2001* (Cth) are to be

read as if applying to all incorporated entities.

**Invoice**

an invoice that:

- (1) references this Deed and the relevant Work Order;
- (2) if GST is payable in respect of the provision of the Services, is a valid tax invoice for the purposes of the *A New Tax System (Goods and Services Tax) Act 1999* (Cth);
- (3) clearly sets out details of the Services provided and of the amount that is due for payment, is correctly calculated and is in respect of Services that have been performed in accordance with this Deed and the relevant Work Order;
- (4) is accompanied by any other details or reports required under this Deed or the relevant Work Order; and
- (5) is rendered at the times specified in the relevant Work Order.

**Personal Information**

is personal information as defined in section 8 of the Information Privacy Act, namely, information or an opinion about an identified individual or an individual who is reasonably identifiable:

- (1) whether the information is true or not; and
- (2) whether the information or opinion is recorded in a material form or not,

but does not include personal health information (as defined in the *Health Records (Privacy and Access) Act 1997* (ACT) about the individual).

**Prescribed Insurer**

an insurer that is authorised by the Australian Prudential Regulation Authority to conduct new or renewal insurance business in Australia and rated at AA or better by Standard & Poor's.

**Pricing Information**

the rates and prices set out in **Attachment 2** (if any).

**Procurement Act**

the *Government Procurement Act 2001* (ACT).

**Services**

the services described in **Schedule 2**, and the relevant

Work Order.

<b>Special Condition</b>	any provision set out in <b>Schedule 3</b> .
<b>Specified Personnel</b>	any person named in <b>Item 3 Schedule 1</b> , or any other employee or agent of the Contractor, who is approved by the Territory under <b>clause 9</b> .
<b>Term</b>	the term specified in <b>Item 2 Schedule 1</b> , and if extended, the initial term and the extended term.
<b>Territory</b>	when used: <ol style="list-style-type: none"><li>(1) in a geographical sense, the Australian Capital Territory; and</li><li>(2) in any other sense, the body politic established by section 7 of the <i>Australian Capital Territory (Self-Government) Act 1988</i> (Cth).</li></ol>
<b>Territory Information</b>	the kind of information that: <ol style="list-style-type: none"><li>(1) is or relates to documents, submissions, consultations, policies, strategies, practices and procedures of the Territory which are by their nature confidential;</li><li>(2) is notified (whether in writing or not) by the Territory to the Contractor as being confidential;</li><li>(3) is specified in <b>Item 5 Schedule 1</b>; or</li><li>(4) is Personal Information,</li></ol> but does not include information that: <ol style="list-style-type: none"><li>(5) is or becomes public knowledge other than by breach of this Deed;</li><li>(6) has been independently developed or acquired by the Contractor; or</li><li>(7) has been notified by the Territory to the Contractor as not being confidential.</li></ol>
<b>Territory Material</b>	any material provided by the Territory to the Contractor for the purposes of this Deed including documents, equipment, information and data stored by any means.

<b>TPPs</b>	the Territory Privacy Principles provided for in section 13 and set out in Schedule 1 of the Information Privacy Act.
<b>TPP Code</b>	a code of practice about information privacy which, having regard to section 21(1) and (3) of the Information Privacy Act, binds an agency that engages the Contractor in the provision of the Services.
<b>Work Order</b>	a written agreement (howsoever named) substantially in the form of <b>Attachment 1</b> (or such other form as notified by the Territory from time to time) that is signed by both parties, the terms of which are read with this Deed.

## 1.2 General

In this Deed, unless a contrary intention is expressed:

- (1) references to “Contractor” include any employees, agents or subcontractors of the Contractor and a reference to “panel” means the panel referred to in the recitals of this Deed;
- (2) references to legislation or to provisions in legislation include references to amendments or re-enactments of them and to all regulations and instruments issued under the legislation;
- (3) words in the singular include the plural and vice versa;
- (4) headings are for convenience only and do not affect the construction or interpretation of this Deed;
- (5) an obligation imposed on more than one person binds them jointly and severally; and
- (6) the word “include” and any derivation is not to be construed as a word of limitation.

## 2. Services

The Contractor must perform the Services in accordance with the provisions of this Deed and the relevant Work Order and to a standard of care, skill and diligence expected of a person who regularly acts in the capacity in which the Contractor is engaged.

## 3. Term

This Deed is for the Term unless terminated under the provisions of this Deed.

## **4. Appointment to panel**

Subject to complying with the terms of this Deed and any Work Orders, the Contractor is appointed to the panel for the Term.

## **5. No guarantee of business**

The Territory does not guarantee, warrant or otherwise represent that any:

- (1) business or minimum value of business; or
- (2) minimum volume of Services,

will be contracted to, earned or received by, the Contractor under this Deed.

## **6. Panel matters**

### **6.1 Process for provision of Services**

From time to time and in accordance with **Schedule 4**, the Territory may invite the Contractor to respond to requests to deliver Services.

### **6.2 Engagement outside the panel**

The Territory may, during the Term and in its absolute discretion, choose to engage third parties to provide services similar to any of the Services.

### **6.3 Open panel**

The Territory may, during the Term and in its absolute discretion:

- (1) choose to appoint other persons to the panel; and
- (2) choose the method or methods by which other persons will be appointed to the panel.

## **7. Contract Price**

### **7.1 Invoice**

The Territory must pay the Contractor the Contract Price following its receipt of an Invoice and otherwise in accordance with the relevant Work Order.

### **7.2 Incorrect payments**

If, after payment, an invoice is found to have been incorrectly rendered, any underpayment or overpayment will be recoverable by or from the Contractor, as the case may be, and, without limiting recourse to other available remedies, may be offset against any amount subsequently due by the Territory to the Contractor under this Deed.



### **7.3 Right of set-off**

If the Territory claims a sum under or arising out of this Deed, or any other agreement between the parties or between the Contractor and any other Territory entity as defined in section 3(1) of the Procurement Act, the Territory may withhold, deduct or set-off the claimed sum against any sum to which the Contractor is otherwise entitled under or arising out of this Deed.

### **7.4 Effect of payment**

Payment, in part or in total, of the Contract Price does not constitute an acceptance by the Territory of the Services and does not amount to a waiver of any right or action which the Territory may have at any time against the Contractor.

## **8. Ownership and use of material**

### **8.1 Ownership of material**

Ownership of:

- (1) all Contract Material, including any intellectual property rights, vests on its creation in the Territory;
- (2) all Territory Material, including any intellectual property rights, remains with the Territory; and
- (3) all Contractor Material, including any intellectual property rights, remains with the Contractor.

### **8.2 Licence of material**

- (1) The Territory grants to the Contractor a royalty-free, limited licence to use the Contract Material and Territory Material for the Term.
- (2) The Contractor grants to the Territory a royalty-free, perpetual, limited licence to use the Contractor Material.
- (3) For the purpose of this clause, “use” includes:
  - (a) such uses as are reasonably necessary for the Territory to obtain the full benefit of the Services, including use of the Contract Material; and
  - (b) such uses as are reasonably necessary for the Contractor to undertake the Services or as otherwise agreed by the Territory,

and may include supply, reproduce, publish, perform, communicate, broadcast, adapt and copy as the context requires.

### **8.3 Third party rights**

The Contractor must ensure:

- (1) the use of any Contract Material or Contractor Material will not infringe the intellectual property rights of any third party; and
- (2) no fees, royalties or other payments are payable in respect of any third party rights as a result of the Territory's (or its agents') use of any Contract Material or Contractor Material.

#### **8.4 Moral rights**

The Contractor must, in relation to the authors of any work that comprises or forms part of the Contract Material:

- (1) use its best endeavours to include in the Contract Material an attribution of those authors; and
- (2) procure from those authors their genuine written consent for the Territory to:
  - (a) attribute the authorship of the work to the Territory or a third party where that attribution was inadvertent;
  - (b) not attribute the authorship of the author when using the work (including exhibiting or performing the work in or to the public); and/or
  - (c) materially alter the work in any way.

#### **8.5 Safekeeping and preservation of material**

The Contractor must ensure the safe-keeping and proper preservation of Contract Material and Territory Material in its possession or control and deliver to the Territory all Contract Material and Territory Material on the expiration or termination of this Deed (other than copies of material that the Territory has authorised the Contractor to retain).

#### **8.6 Territory access to records relating to Services**

Without limiting the powers of the Territory's Auditor-General under the *Auditor-General Act 1996* (ACT) the Territory (or its nominated representative) may, at its cost, inspect records kept by the Contractor and conduct audits and other checks, to monitor the Contractor's:

- (1) delivery of the Services and compliance with this Deed or any Work Order; and
- (2) financial position, resources and their ability to otherwise continue to deliver the Services for the Term,

and the Contractor must act reasonably to cooperate with persons authorised to conduct an audit or checks and allow the Territory (at the Territory's expense) to take copies of all relevant records.

## **9. Contractor's personnel**

The Contractor must:

- (1) in performing the Services, engage only persons who have the skills, training and expertise appropriate for the Services;
- (2) comply with all reasonable requirements notified by the Territory regarding the suitability and fitness of persons engaged by the Contractor for the performance of Services;
- (3) ensure the Services are performed by Specified Personnel (if any) and provide replacement personnel acceptable to the Territory at no additional charge and at the earliest opportunity if the Specified Personnel are unable to perform any of the Services;
- (4) if the Territory requires, ensure that each person engaged in the performance of the Services executes a deed of confidentiality in a form acceptable to the Territory (including with respect to not accessing or otherwise safeguarding Personal Information as applicable), and provide those executed deeds to the Territory in accordance with any requirements that the Territory notifies; and
- (5) otherwise comply with any requirements in the Work Order in relation to the Contractor's personnel.

## **10. Non-disclosure of Territory Information**

### **10.1 Contractor's use of Territory Information**

The Contractor must:

- (1) use Territory Information held in connection with this Deed only for the purposes of fulfilling its obligations under this Deed or a Work Order;
- (2) not transfer Territory Information held in connection with this Deed outside the Territory, or allow any person (other than its authorised personnel) outside the Territory to have access to it, without the prior approval of the Territory;
- (3) notify the Territory immediately if the Contractor becomes aware that a disclosure of Territory Information is required by law, or an unauthorised disclosure of Territory Information has occurred; and
- (4) in respect of any Personal Information held in connection with the Deed:
  - (a) comply with the TPPs and any applicable TPP Code and must not (and procure that any subcontractor engaged by the Contractor under this Deed does not) act or engage in a practice that breaches a TPP or a TPP Code; and
  - (b) co-operate with any reasonable requests or directions of the Territory

arising directly from, or in connection with, the exercise of the functions of the information privacy commissioner under the Information Privacy Act.

## **10.2 Contractor to protect Territory Information**

- (1) Except as provided in this Deed or a Work Order, the Contractor must not disclose Territory Information to any person without the prior written consent of the Territory except to the extent that the Territory Information is:
  - (a) required or authorised to be disclosed by law,
  - (b) disclosed to the Contractor's solicitors, auditors, insurers or advisers,
  - (c) generally available to the public, or
  - (d) in the possession of the Contractor without restriction in relation to disclosure before the date of receipt from the Territory.
- (2) The Contractor must take all reasonable measures to ensure that Territory Information accessed or held by it in connection with this Deed is protected against loss, unauthorised access, use, modification, disclosure or other misuse in accordance with reasonable procedures for that purpose and that only its authorised personnel have access to Territory Information.
- (3) The Contractor must do all things necessary to ensure that Territory Information accessible to the Contractor and the Contractor's personnel by virtue of the performance of this Deed is not accessed, published or communicated in any way, including imposing upon the Contractor's personnel obligations of confidentiality with respect to Territory Information.

## **10.3 Acknowledgement of effect of Crimes Act**

The Contractor acknowledges that the publication or communication of any fact or document by a person which has come to its knowledge or into its possession or custody by virtue of the performance of this Deed (other than to a person to whom the Contractor is authorised to publish or disclose the fact or document) may be an offence under section 153 of the *Crimes Act 1900* (ACT).

# **11. Confidential Text under Procurement Act**

## **11.1 Territory may make Deed publicly available**

In giving effect to the principles of open and accountable government, the Territory may disclose documents and information unless it has otherwise agreed, or is otherwise required under law, to keep the information confidential. In accordance with those principles, this Deed and/or a Work Order may be a notifiable contract under the Procurement Act and, if so, the Territory will be required to make the text of this Deed and/or the relevant Work Orders available to the public, including by publication on a public contracts register.

## 11.2 Confidential Text

- (1) If **Item 6 Schedule 1** states that this Deed is a notifiable contract under the Procurement Act and specifies Confidential Text, the grounds on which the text is confidential are set out in **Item 7 Schedule 1**, and **clause 11.3** applies.
- (2) If a Work Order states that the Work Order is a notifiable contract under the Procurement Act and specifies Confidential Text, the grounds on which the text is confidential are set out in the Work Order and **clause 11.3** applies.

## 11.3 Territory must not disclose Confidential Text

Except as provided in this Deed or a Work Order, the Territory must not disclose Confidential Text to any person without the prior written consent of the Contractor (which consent will not be unreasonably withheld) except to the extent that Confidential Text:

- (1) is required or authorised to be disclosed under law;
- (2) is reasonably necessary for the enforcement of the criminal law;
- (3) is disclosed to the Territory's solicitors, auditors, insurers or advisers;
- (4) is generally available to the public;
- (5) is in the possession of the Territory without restriction in relation to disclosure before the date of receipt from the Contractor;
- (6) is disclosed by the responsible Minister in reporting to the Legislative Assembly or its committees; or
- (7) is disclosed to the ombudsman or for a purpose in relation to the protection of public revenue.

## 12. Secure Local Jobs

### 12.1 Definitions for this clause

- (1) In this **clause 12**:
  - (a) **Adverse Ruling** means a ruling by any court, tribunal, board, commission or other entity (including but not limited to the Fair Work Commission) with jurisdiction to determine the matter, that the Contractor or one of its Associated Entities has contravened an Industrial Law;
  - (b) **Approved Auditor** has the meaning as set out in the Procurement Act;

- (c) **Associated Entity** has the meaning given by section 50AAA of the *Corporations Act 2001* (Cth);
- (d) **Code** means the Secure Local Jobs Code;
- (e) **Full Details** means:
  - (i) the nature of the Adverse Ruling;
  - (ii) any conviction recorded or adverse finding made in respect of the Adverse Ruling;
  - (iii) any penalty or orders imposed by a court, tribunal, board, commission or other entity in respect of the Adverse Ruling and the maximum penalty that could have been imposed under the relevant Industrial Law;
  - (iv) the name of the court, tribunal, board, commission or other entity, the jurisdiction in which the proceeding or prosecution was brought, the date on which the proceeding or prosecution commenced and the number or description assigned to the proceeding or prosecution by the court, tribunal, board, commission or other entity;
  - (v) the name of the entity against which the Adverse Ruling was made; and
  - (vi) any other relevant information that the Contractor may rely on as grounds for not terminating this Deed as a result of the Adverse Ruling;
- (f) **Industrial Law** means any Commonwealth, State or Territory legislation that deals with matters relating to industrial relations and includes employment and workplace safety obligations;
- (g) **Labour Relations, Training and Workplace Equity Plan** has the meaning as set out in the Procurement Act;
- (h) **Registrar** has the meaning as set out in the Procurement Act;
- (i) **Secure Local Jobs Code** has the meaning as set out in the Procurement Act;
- (j) **Secure Local Jobs Code Certificate** has the meaning as set out in the Procurement Act;
- (k) **Territory Entity** has the meaning as set out in the Procurement Act; and
- (l) **Territory-Funded Work** has the meaning as set out in the Procurement Act.

- (2) For the purposes of **clause 12.2(2)** and **clause 12.3(6)** the form set out in the **Attachment 3** is approved unless otherwise advised by the Territory.

## **12.2 Subcontractors performing Territory-Funded Work**

- (1) The Contractor must, in relation to any subcontractors engaged to perform Territory-Funded Work:
  - (a) ensure terms are included in the agreement with the subcontractor:
    - (i) requiring the subcontractor to comply with the Code; and
    - (ii) imposing obligations on the subcontractor in the same form as those set out in **clause 12** and imposed on the Contractor (subject to any necessary variation to reflect the different parties);
  - (b) ensure:
    - (i) the subcontractor holds a Secure Local Jobs Code Certificate; and
    - (ii) maintains a Secure Local Jobs Code Certificate during the term of their agreement; and
    - (iii) the obligations in **clause 12.2(1)(b)(i)** and **clause 12.1(1)(b)(ii)** are included in the relevant agreement with the subcontractor.
- (2) The Territory may by written notice request the Contractor obtain a statutory declaration from a subcontractor engaged to perform Territory-Funded Work regarding its compliance with the Code and provide it to the Territory within 15 Business Days of the date of the written notice. The Contractor must use its reasonable endeavours to ensure the subcontractor supplies the declaration to enable the Contractor to comply with this **clause 12.2(2)**.
- (3) Without limiting **clause 8.6**, the Territory (or nominated representative) and Approved Auditors may, at the Territory's cost, access records kept by subcontractors engaged to perform Territory-Funded Work and conduct audits and other reviews and checks, to monitor compliance with this clause and the Code, except in circumstances where a nomination would result in a conflict with Commonwealth laws.

## **12.3 Contractor's Secure Local Jobs responsibilities**

- (1) This **clause 12.3** applies to the extent that this Deed provides for the performance of Territory-Funded Work by the Contractor.
- (2) The Contractor must comply with all of its obligations under the Code.
- (3) The Contractor must maintain a valid Secure Local Jobs Code Certificate during the term of the Deed.

- (4) Failure of the Contractor to maintain a valid Secure Local Jobs Certificate will constitute a breach of an essential term of this Deed entitling the Territory to terminate the Deed on written notice to the Contractor.
- (5) If at any time during the term of the Deed an Adverse Ruling is made, the Contractor must, within 7 Business Days of the making of the Adverse Ruling, provide a statutory declaration by an authorised representative of the Contractor setting out the Full Details of the Adverse Ruling and (if applicable) any existing or planned remedial measures taken or to be taken to prevent a contravention, breach or offence similar to the contravention, breach or offence on which the Adverse Ruling is based from recurring.
- (6) The Contractor must provide the Territory with a statutory declaration in a form approved by the Territory regarding its compliance with the Code:
  - (a) within 5 working days of a written request from the Territory; and
  - (b) if requested in writing by the Territory, at the time the Contractor provides an Invoice.
- (7) Failure of the Contractor to provide a statutory declaration in accordance with **clause 12.3(6)** or the making of a false statement in a statutory declaration by the Contractor or its representative will constitute a breach of this Deed.
- (8) If the Contractor fails to provide a statutory declaration in accordance with **clause 12.3(6)(b)** the Territory may withhold payment of monies otherwise due to the Contractor in respect of the relevant Invoice until the statutory declaration is received.
- (9) The Territory may require that Contractor conduct face-to-face induction sessions with employees at the commencement of Territory-Funded Work or commencement of employment in relation to Territory-Funded Work.
- (10) The Territory may require a union workplace delegate or employee representative to attend staff induction sessions held by the Contractor except in circumstances where attendance would result in a conflict with Commonwealth laws.
- (11) The Contractor must, at all reasonable times, allow the Territory, Registrar or person nominated by the Territory or Registrar to enter the Contractor worksite where the Territory-Funded Work is being performed in order to undertake education and awareness raising activities in relation to the Code. A person may not be nominated by the Territory or Registrar under this **clause 12.3(11)** in circumstances where entry would result in a conflict with Commonwealth laws.
- (12) Without limiting **clause 8.6**, the Territory (or nominated representative) and Approved Auditors may, at the Territory's cost, access records kept by the Contractor and conduct audits and other reviews and checks, to monitor



compliance with this clause and the Code, except in circumstances where a nomination would result in a conflict with Commonwealth laws.

- (13) If the Contractor was required to submit a Labour Relations, Training and Workplace Equity Plan (if any) submitted as part of its tender for the Services:
- (a) the Contractor must implement its commitments set out in its Labour Relations, Training and Workplace Equity Plan;
  - (b) the Contractor must report to the Territory on its compliance with **clause 12.1(13)(a)** quarterly during the term of this Deed;
  - (c) the Contractor must attend any meetings scheduled by the Territory to review its progress in implementing its commitments set out in the Labour Relations, Training and Workplace Equity Plan; and
  - (d) failure to comply, in whole or in part, with the commitments contained in any Labour Relations, Training and Workplace Equity Plan may be taken into account in the award of future contracts for Territory Entities and/or the granting of future Secure Local Jobs Code Certificates by the Registrar.

## **13 Insurance and indemnity**

### **13.1 Contractor's insurance**

The Contractor must effect and maintain for the Term all insurance coverage required to be effected by it by law, public liability insurance and professional indemnity insurance in amounts not less than the amounts (if any) specified by **Item 4 Schedule 1**, and any other insurance specified in **Item 4 Schedule 1**, with a Prescribed Insurer.

### **13.2 Indemnity**

The Contractor indemnifies the Territory, its employees and agents against liability in respect of all claims, costs and expenses in relation to all loss, damage, injury or death to persons or property caused by the Contractor, in connection with the provision of the Services, except to the extent that the Territory caused the relevant loss, damage or injury.

### **13.3 Claims to be made good**

The Contractor must, at its expense, make good the amount of all claims, loss, damage, costs and expenses the subject of the indemnity in **clause 13.2** and the Territory may deduct the amount, or any part of it, from any moneys due or becoming due to the Contractor under this Deed.

## 14 Termination

### 14.1 Default

- (1) The Territory may terminate this Deed and/or any Work Order, or suspend the Contractor's status as a member of the panel at any time by notice to the Contractor, if the Contractor:
  - (a) is the subject of an Insolvency Event;
  - (b) fails to commence regular and timely provision of the Services under this Deed or under a Work Order, or fails to meet any prescribed timeframes; or
  - (c) is in breach of a provision of this Deed or of a Work Order, where that breach:
    - (i) if capable of being remedied, is not remedied within the period specified in a notice by the Territory, or
    - (ii) is not capable of being remedied, or
    - (iii) in the Territory's absolute opinion is a serious breach.
- (2) In the event the Contractor is suspended from the panel the Contractor:
  - (a) is ineligible to receive draft Work Orders for the period of the suspension; and
  - (b) must continue providing Services under any current Work Order, unless otherwise terminated in accordance with this Deed or the relevant Work Order.
- (3) In the event this Deed is terminated or the Contractor is suspended from the panel by the Territory under this **clause 14.1**, any then current Contract may be terminated by the Territory in its absolute discretion, by written notice to the Contractor. For the purposes of the relevant Contract, the Territory's right to terminate is deemed to arise on the basis of the Contractor's default.
- (4) When determining whether a serious breach has occurred the Territory may, but is not limited to, consider such matters as:
  - (a) the number of instances of failure or breach;
  - (b) whether remedial measures taken by the Contractor are commensurate with the failure or breach and in the reasonable opinion of the Territory, can be expected to prevent such failure or breach from recurring; and
  - (c) whether the Territory is otherwise satisfied that the Contractor has shown good cause why panel status should not be suspended or this Deed terminated (as the case may be).

- (5) If the Contractor is suspended from the Panel, the Territory may place such condition on its reinstatement to the Panel as it considers appropriate in the circumstances.

## **14.2 Termination of Deed for any reason**

The Territory may, at any time by notice to the Contractor, terminate this Deed for any reason and in that event:

- (1) any then current Work Order may also be terminated by the Territory, in its absolute discretion, by written notice to the Contractor;
- (2) the Territory will be liable only for:
  - (a) payments for Services rendered before the date of termination; and
  - (b) subject to **clause 14.2(3)** any reasonable costs incurred by the Contractor and directly attributable to the termination of Services, but not in respect of loss of prospective profits; and
- (3) the Contractor must:
  - (a) stop work as specified in the notice; and
  - (b) take all available steps to minimise loss resulting from that termination.

## **14.3 Termination of Work Order for any reason or reduction of Services**

The Territory may, at any time by notice to the Contractor, terminate a Work Order or reduce the Services under a Work Order for any reason, and in that event:

- (1) the Territory will be liable only for:
  - (a) payments for Services under this Deed and the relevant Work Order rendered before the date of termination; and
  - (b) subject to **clauses 14.3(2) and 14.3(3)**, any reasonable costs incurred by the Contractor and directly attributable to the termination or reduction of Services, but not in respect of loss of prospective profits;
- (2) on receipt of a notice of termination or reduction, the Contractor must:
  - (a) stop work as specified in the notice;
  - (b) take all available steps to minimise loss resulting from that termination or reduction of Services; and
  - (c) continue to perform any part of the Services not affected by the notice; and
- (3) in the event of a reduction of the Services, the Territory's liability to pay the

Contract Price will, in the absence of agreement to the contrary, abate proportionately to the reduction in the Services.

#### **14.4 Expiration of Deed**

If a Work Order held by the Contractor is not complete at the expiration of this Deed, the Contractor must complete the Work Order in accordance with the terms and conditions of this Deed, and the relevant Work Order, and the Territory will continue to pay the Contractor in accordance with this Deed and the relevant Work Order until the relevant Work Order expires or is earlier terminated. This **clause 14.4** survives the expiration of this Deed.

#### **14.5 No prejudice**

Nothing in this **clause 14** prejudices any other rights or remedies of the Territory in respect of any breach of this Deed.

### **15 Dispute resolution**

- (1) If a difference or dispute (**Dispute**) arises in relation to this Deed either party may give notice to the other that a Dispute exists, which specifies details of the Dispute, and the parties agree that they will endeavour to resolve the Dispute by negotiations, or, if the Dispute has not been resolved within 28 days of the issue of the notice, refer to matter to appropriate senior executives with authority to finally resolve the matter.
- (2) Nothing in this **clause 15** will prejudice the rights of either party to institute proceedings to enforce this Deed or to seek injunctive or urgent declaratory relief in respect of any Dispute.

### **16 General**

#### **16.1 Cooperation**

Each party will fully cooperate with each other to ensure timely progress and fulfilment of this Deed and any Work Order.

#### **16.2 Conflict of interest**

The Contractor warrants that no conflict of interest exists or is likely to arise in the performance of the Services and its other obligations under this Deed and must, if a conflict or risk of conflict arises, notify the Territory and comply with any requirement of the Territory to eliminate or deal with that conflict or risk.

#### **16.3 No employment, partnership or agency relationship**

Nothing in this Deed constitutes the Contractor, or its employees, agents or subcontractors as employees, partners or agents of the Territory or creates any employment, partnership or agency for any purpose and the Contractor must not represent itself, and must ensure its employees, agents and subcontractors do not

represent themselves, as being employees, partners or agents of the Territory.

#### **16.4 No assignment or subcontracting**

- (1) The Contractor must not subcontract the performance of the Services or assign the whole or part of this Deed or a Work Order without the prior written consent of the Territory. If the Territory gives its consent, the Territory may impose any conditions.
- (2) A change in the control of the Contractor or a company that controls the Contractor (except a company listed on an Australian stock exchange) is taken to be an assignment, the term “control” including the direct or indirect holding of more than 50% of the share capital of a corporation.
- (3) If the Contractor breaches **clause 16.4(1)**, the Territory reserves its rights, including requiring the Contractor to provide information regarding the proposed subcontractor’s or assignee’s capability to continue performing this Deed or to provide security to ensure the proper performance of this Deed.

#### **16.5 Entire agreement**

This Deed and each Work Order comprises the entire agreement between the parties in relation to the Services and supersedes any prior representations, negotiations, writings, memoranda and agreements.

#### **16.6 Severability**

Any provision of this Deed that is illegal, void or unenforceable will not form part of this Deed to the extent of that illegality, voidness or unenforceability. The remaining provisions of this Deed will not be invalidated by an illegal, void or unenforceable provision.

#### **16.7 Variation**

This Deed may be varied or the Term extended only by the written agreement of the parties prior to the expiration of this Deed.

#### **16.8 No waiver**

Failure or omission by the Territory at any time to enforce or require strict or timely compliance with any provision of this Deed will not affect or impair that provision in any way or the rights and remedies that the Territory may have in respect of that provision.

#### **16.9 Governing law and compliance with the law**

This Deed is governed by and construed in accordance with the law for the time being in force in the Territory and the parties submit to the non-exclusive jurisdiction of the courts of the Territory. The Contractor must comply with the laws from time to time in force in the Territory in performing the Services.

## 16.10 Notices

Any notice, including any other communication, required to be given or sent to either party under this Deed or a Work Order must be in writing and given to the relevant Contract Officer. A notice will be deemed to have been given:

- (1) if delivered by hand, on delivery;
- (2) if sent by prepaid mail, on the expiration of two business days after the date on which it was sent;
- (3) if sent by facsimile, on the sender's facsimile machine recording that the facsimile has been successfully and properly transmitted to the recipient's address; or
- (4) if sent by electronic mail, on whichever of the following occurs first:
  - (a) the other party's acknowledgement of receipt by any means;
  - (b) the sender's electronic mail device recording that the electronic mail has been successfully transmitted to the recipient's address; or
  - (c) the expiration of two business days after the date on which it was sent without receipt of a notification that the delivery failed,

and, if given in two or more ways, on the first of paragraphs (1) to (4) occurring.

## 16.11 Special Conditions

In the event of any inconsistency between:

- (1) any Special Condition and any other provision of this Deed then, to the extent of any inconsistency, the Special Condition will prevail; and
- (2) a Work Order and this Deed, the Work Order will prevail.

## 16.12 Survival of clauses

**Clauses 7.2, 10, 13.2 and 13.3** will survive the expiration or earlier termination of this Deed.

# SCHEDULE 1

## CONTRACT DETAILS

- Item 1. Contract Officers**  
*See clauses 1.1 and 16.10*
- For the Territory:  
[INSERT name of Contract Officer]  
[INSERT contact details – address and facsimile]
- For the Contractor:  
[INSERT name of Contract Officer]  
[INSERT contact details – address and facsimile]
- Item 2. Term**  
*See clauses 1.1 and 3*
- From [INSERT start date, eg. the date of this Deed] until [INSERT end date].
- Item 3. Specified Personnel**  
*See clauses 1.1 and 9*
- Not applicable.  
[OR, INSERT names if relevant.]
- Item 4. Other amounts and insurance**  
*See clause 13.1*
- (1) Public liability insurance: [INSERT amount, eg. \$20 million] (in respect of each claim).
  - (2) Professional indemnity insurance: [INSERT amount, eg. \$10 million] (in respect of each claim) and [INSERT amount, eg. \$10 million or a different amount] (in the annual aggregate).
  - (3) [INSERT other type of insurance, if any].

**[Instructional Note:** The level of public liability insurance under this Deed must be based on an assessment of risk.

Advice from the ACTIA may be obtained regarding whether professional indemnity insurance is required for the purposes of the Deed and the appropriate level.

If professional indemnity insurance is required, the Contractor may be subject to a professional standards scheme created under the *Civil Law (Wrongs) Act 2002* (ACT), which must be applied in determining the level of professional indemnity insurance for the Deed. Seek ACTGS advice regarding how the Scheme affects the professional indemnity insurance requirements in the Deed.

If professional indemnity insurance is required,

consideration should be given to whether “run-off” cover is necessary. If so, the following words may be included in this Item 5: “The Contractor must maintain the professional indemnity insurance coverage required under this Item 4 for an additional period of 6 years from the expiration of the Term. This Item survives the expiration or earlier termination of this Deed.”

**Item 5. Territory Information**  
*See clauses 1.1 and 10*

Item 5 not used.

[OR, INSERT details of any information (other than Confidential Text) that the Territory requires the Contractor to keep confidential in addition to what is already set out in the definition of Territory Information. If details in the definition of Territory Information are sufficient, RETAIN “Item 5 not used”.]

**Item 6. Confidential Text**  
*See clause 11*

Item 6 not used.

[OR, INSERT “This Deed is a “notifiable contract” under the Procurement Act and the following is Confidential Text: INSERT details of any text in the Deed that either party requires the Territory to keep confidential, eg. name and other personal details of Contract Officers or Specified Personnel, hourly rates or other individual components of the Pricing Information]

**[Instructional Note:** If the Deed is a notifiable contract under the Procurement Act, text may only be deleted from the public text of the Deed if the Territory is permitted to not disclose the text on the basis of one or more of the grounds set out in section 35(1) of the Procurement Act. The relevant grounds should be specified in Item 7 below.]

**Item 7. Grounds for confidentiality of Confidential Text**  
*See clause 11*

Item 7 not used.

[OR, MODIFY this Item as appropriate (see text below) and insert here.

“The Procurement Act, part 3 (Notifiable Contracts) applies to this Deed. The Territory is satisfied that the Confidential Text is “confidential information” for the purposes of that Act because disclosure of the text would:

**EXAMPLE ONLY**

- (1) be an unreasonable disclosure of Personal Information about a person; or
- (2) be an unreasonable disclosure of information



about the business affairs of a person.”]

**[Instructional Note:** if the Deed is a “notifiable contract” under the Procurement Act, in order for the Confidential Text to be kept confidential, the Territory must be satisfied that at least one of the grounds for confidentiality set out in section 35(1) of the Act applies to the Confidential Text.

Also, note that if **Item 6** is used, **Item 7** must also be completed.]

## SCHEDULE 2

### THE SERVICES

If engaged under a Work Order to provide Services, subject to that Work Order, and within any timeframes specified in that Work Order, the Contractor will provide the Services or categories of Services as follows.

Item Number	Details of Services
1	[INSERT description of Services]
2	[INSERT description of Services]
3	[INSERT description of Services]
4	[INSERT description of Services]

## SCHEDULE 3

### SPECIAL CONDITIONS

*See clause 16.11*

[If there are no Special Conditions, DELETE the following Items and INSERT “Not Used”.]

#### Item 1. Complaints in relation to interference with privacy

[**Instructional Note:** it is recommended that this Special Condition be included in Schedule 3 until agencies that will be using this template have implemented TPP policies or codes of practice that make provision for the handling of complaints in relation to the handling of Personal Information by non-government agencies, such as the Contractor]

1.1 A complaint alleging an interference with the privacy of an individual in respect of any Services performed by the Contractor (**Complaint**) will be handled by the Territory in accordance with the following procedures, unless otherwise provided for in a TPP privacy policy made under TPP 1.3 which applies to a Territory agency as relevant to this Deed:

- (1) if the Territory receives a Complaint it will immediately notify the Contractor of only those details of the Complaint necessary to minimise any breach or prevent further breaches of this Deed;
- (2) if the Contractor receives a Complaint it must immediately notify the Territory of the nature of the Complaint but will only release Personal Information to the Territory concerning the complainant with that person’s consent; and
- (3) after the Territory has given or been given notice under paragraphs (1) or (2), it will keep the Contractor informed of all progress with the Complaint concerning the actions of the Contractor.

1.2 This **Item 1** survives the expiry or earlier termination of this Deed.

#### Item 2. Changes in control of Contractor

[**Instructional Note:** Use this Special Condition if **clause 15.4(2)** is not sufficient and a wider set of circumstances are required to deem a change in control of the Contractor]

In addition to the circumstances set out in **clause 16.4(2)**, for the purposes of **clause 16.4**, “control” includes the direct or indirect possession of the power (whether or not having statutory, legal or equitable force, and whether or not based on statutory, legal or equitable rights) to:

- (1) directly or indirectly control the membership of the board of directors of the corporation; or
- (2) otherwise directly or indirectly direct or cause the direction of the management and policies of that corporation,

whether by means of trusts, agreements, arrangements, understandings, practices, greater industry experience, the ownership of any interest in shares or stock of that corporation or otherwise.

### Item 3. Price Adjustment

**[Instructional Note: If the parties have agreed that the Pricing Information in Attachment 2 is subject to price adjustment during the term of the Deed, such as in accordance with annual CPI or WPI increases, include the method of calculating that adjustment in this Item. Otherwise DELETE. Seek advice from your manager or the ACT Government Solicitor with respect to appropriate drafting, such as the following methodology]**

3.1 The parties agree that the Contractor's rates set in out in the Pricing Information at **Attachment 2** (if any) and are fixed until the first anniversary of this Deed ("**Review Date**"). On, or within 30 days following the Review Date, and on, or within 30 days following each anniversary of the Review Date (which will also be a Review Date), the Contractor may submit a request ("**Review Request**") for review of its Pricing Information.

3.2 If:

- (a) the Contractor does not submit a Review Request within 30 days of the Review Date; or
- (b) the Territory determines that a revision of the Pricing Information is not reasonable in accordance with paragraph (3),

the Contractor's rates subsisting immediately prior to the relevant Review Date will continue to apply.

3.3 If the Territory in its absolute discretion determines that a revision of the Pricing Information is fair or reasonable in the circumstances prevailing at the time, the Pricing Information will be adjusted from the relevant Review Date in accordance with the following paragraphs.

$$NR = OR \times NCPI$$

Where:

"NR" is the new rate for the referable Works in the referable year.

"OR" is the rate which applied immediately preceding the last Review Date.

"NCPI" is the last published Consumer Price Index prior to the most recent Review Date.

For the purpose of this Item **Consumer Price Index (CPI)** means the Consumer Price Index for Canberra (All Groups) as published by the Australian Statistician (or such

person or office which fulfils the relevant function fulfilled by the Australian Statistician at the commencement of the Deed). In the event that the Consumer Price Index is adjusted (for example by changing the base index number or changing the year of the base index number), or there is any suspension or discontinuance of the Consumer Price Index by the Australian Statistician, then the Consumer Price Index will mean such index figure or statistic published at the relevant dates in the Australian Statistician's summary of Australian statistics which reflects fluctuations in the cost of living in Canberra and which the parties may mutually agree upon, and if they are unable to agree then such index figure or statistic as may be determined by the President for the time being of the Australian Property Institute or some person nominated by the President whose decision will be conclusive and binding. This definition will apply notwithstanding that there may be significant changes over time in the composition and weighting of the items by reference to which the Consumer Price Index is calculated.

3.4 If the Contractor's Pricing Information is adjusted:

- (a) with respect to any Contracts entered into after the relevant Review Date, the new rates will apply; and
- (b) with respect to any Contracts entered into before the relevant Review Date, the rates that applied at the time of execution of that Contract will continue to apply to that Contract.

## Item 4. Work Health and Safety

[**Instructional Note:** Only use this Special Condition in circumstances where the Services include labour based services].

4.1 The following definitions apply in this Item:

- WHS Legislation**
- (1) the *Work Health and Safety Act 2011* (ACT);
  - (2) the *Work Health and Safety Regulation 2011* (ACT);
  - (3) all instruments issued under the *Work Health and Safety Act 2011* or the *Work Health and Safety Regulation 2011*;
  - (4) all laws that replace the above laws; and
  - (5) all other laws applicable in the State or Territory in which the Services are carried out dealing with work health and safety matters.

**OHS Management System** an occupational health and safety system listed on the Joint Accreditation System of Australia & New

Zealand (JAS-ANZ) register as having current third party certification in accordance with the latest edition, as amended, of AS/NZS ISO 4801 (or such other occupational health and safety system as is found acceptable to the Territory).

- 4.2 The obligations set out in this Deed including a Work Order do not detract from the Contractor's obligations under the WHS Legislation. If there is an inconsistency between this Deed including a Work Order and the WHS Legislation, the Contractor must comply with the WHS Legislation and inform the Territory of the inconsistency.
- 4.3 The Contractor must comply with the WHS Legislation and ensure all work is carried out safely and in a manner that does not put the health and safety of persons at risk.
- 4.4 The Contractor must comply with its duty under the WHS Legislation to consult, cooperate and coordinate activities with all persons who have a work health and safety duty in relation to the same matter.
- 4.5 The Contractor must institute and maintain systems to obtain regular written assurances from all subcontractors and other entities engaged to perform Services about their ongoing compliance with the WHS Legislation including the due diligence obligation contained in the WHS Legislation.
- 4.6 The Contractor must provide the written assurances obtained under **Item 4.5**, together with written assurances from the Contractor about the Contractor's ongoing compliance with WHS Legislation, to the Territory when requested.
- 4.7 The Contractor must provide the Territory with a written report on all work health and safety matters referable to the conduct of the Services, or any other relevant matters required by the Territory including a summary of the Contractor's compliance with WHS Legislation as requested.
- 4.8 The Contractor must exercise a duty of utmost good faith to the Territory in carrying out the work under this Agreement to enable the Territory to discharge the Territory's duties under the WHS Legislation.
- 4.9 The Contractor must ensure that if any law requires that a person:
  - (2) be authorised or licensed (in accordance with WHS Legislation) to carry out any work at a workplace, the person is so authorised or licensed and complies with any conditions of such authorisation or licence; or
  - (3) has prescribed qualifications or experience, or if not, is supervised by a person who has prescribed qualifications or experience (as defined in the WHS Legislation), that person has the required qualifications or experience or is so supervised.

- 4.10 The Contractor must ensure that if any law requires that a workplace, plant or substance, design, or work (or class of work) be authorised or licensed, that workplace, plant or substance, design or work is so authorised or licensed.
- 4.11 The Contractor must not direct or allow a person to carry out work, or use plant or a substance at a workplace unless the authorisation, licensing, prescribed qualifications or experience required by any law and **Items 4.9** and **4.10** are met.
- 4.12 If requested by the Territory or required by WHS Legislation, the Contractor must produce evidence of any approvals including any authorisations, licences, prescribed qualifications or experience, or any other information relevant to work health and safety (as the case may be) to the satisfaction of the Territory before the Contractor or any subcontractor commences such work.
- 4.13 If the Territory reasonably considers that a risk of injury to people or damage to property is arising or likely to arise from the activities of the Contractor (or any of its subcontractors) the Territory may direct the Contractor (or the relevant subcontractor) to change its manner of working or cease working and the Contractor or subcontractor must comply.
- 4.14 The Territory may take any action necessary to protect property or to prevent or minimise risk to health and safety of persons, which the Contractor must take but does not and the Territory may recover any costs associated with such action from the Contractor.
- 4.15 The Contractor must systematically manage its work health and management processes in accordance with the systems, plans, standards and codes specified in this Agreement and the WHS Legislation.
- 4.16 The Contractor must demonstrate to the Territory, whenever requested, that the Contractor has met and is meeting at all times, its obligations under this Item but such demonstration does not relieve the Contractor of its primary obligation to perform work safely.

## SCHEDULE 4

### Request to Provide Services

*See clause 6.1*

**[Instructional Note:** Insert description of method of requesting specific services from a supplier. For EXAMPLE, if Services are to be ordered by use of the template Work Order included at Attachment 1, the following may be appropriate. Seek advice from your manager and the ACT Government Solicitor if a different method of allocating work is required, or if a different template work order is intended to be used]

For the purposes of **Schedule 4**, the following definitions apply unless the context indicates otherwise.

**Draft Work Order** means a written request substantially in the form of **Attachment 1** by the Territory for the Contractor to provide a response in relation to an opportunity to provide Services under this Deed.

#### Item 1. Process for provision of Services

##### 1.1 Request for Services

- (1) From time to time the Territory may issue to one or more panel members a Draft Work Order detailing Services required.
- (2) The Contractor acknowledges that the Territory may, in its absolute discretion, use a competitive process in selecting a panel member to provide Services.
- (3) The Territory will send Draft Work Orders, if any, to the Contractor in a manner determined by the Territory.

##### 1.2 Response to a Draft Work Order

- (1) The Territory may specify in a Draft Work Order that the Contractor must acknowledge receipt of the Draft Work Order within a particular period, prior to the Contractor submitting its response to that Draft Work Order.
- (2) If an acknowledgment is not received by the Territory as required in the Draft Work Order, the Territory may, in its absolute discretion, not consider the Contractor further in relation to that Draft Work Order.
- (3) Upon receipt of a Draft Work Order, the Contractor must:
  - (a) respond in accordance with the process and within the timeframes specified in the Draft Work Order, or in any correspondence provided with the Draft Work Order; or



- (b) if no process for response is specified in the Draft Work Order, make any amendments it requests to the Draft Work Order, have an authorised representative sign the Draft Work Order, and return the Draft Work Order to the Territory together with a document clearly and accurately detailing the changes made to the Draft Work Order; or
  - (c) reject the Draft Work Order, in which case the Territory and the Contractor will have no further obligations in respect of the Draft Work Order.
- (4) Any prices quoted by the Contractor for requested Services in the Draft Work Order must not exceed the Contractor’s Pricing Information, if any.
- (5) In the event a Contractor fails to submit its response within the time required, or submits a response that cannot be read, is at variance with or does not respond fully to, or does not comply with the requirements specified in relation to the Draft Work Order or this Deed, the response will be considered non-conforming and the Territory may, in its absolute discretion:
- (a) reject the response and not consider it further; or
  - (b) ignore the non-conformance and assess the response; or
  - (c) if it is possible to correct the non-conformance without affecting the probity of any competitive process, permit the Contractor to do so.
- (6) The Territory is under no obligation to select any Contractor. A Draft Work Order may be amended (including the closing time extended), or the process varied or discontinued upon the Territory giving written notice to the participating Contractors.

### **1.3 Assessment of responses to a Draft Work Order**

- (1) In assessing a panel member’s response to a Draft Work Order, the Territory will take into account any matters set out in, or provided with, the Draft Work Order, and may also take the following considerations into account:
- (a) the quoted price (if relevant) and value for money;
  - (b) the Contractor’s past performance if it has previously provided Services to the Territory;
  - (c) the Contractor’s proposed methodology;
  - (d) the capacity and availability of Contractor’s resources;
  - (e) the Contractor’s areas of speciality;
  - (f) an absence or presence of any conflicts of interest;

- (g) the Contractor's ability to perform the work within the necessary timeframe; and
  - (h) the Contractor's observance of Territory policy.
- (2) Upon receipt of response(s) to Draft Work Order(s) from panel member(s), the Territory may select a preferred panel member and then:
- (a) commence contract negotiations with the preferred panel member; or
  - (b) if a competitive process was used, commence negotiations with another respondent if contract negotiations with the preferred panel member are not concluded in a manner satisfactory to the Territory (including within a time specified by the Territory); or
  - (c) cease negotiations with any panel member (in which case, without limiting the actions the Territory may take, the Territory may, in its absolute discretion, issue a further Services Request to one or more panel members, or source the services from outside the panel).

## **1.2 Agreement to provide Services**

- (1) A final Work Order must be agreed by the parties and must be signed by both the Contractor and the Territory prior to the commencement of the Services specified in that Work Order.
- (2) The parties' agreement with respect to the provision of Services is set out in the final executed Work Order and this Deed.
- (3) The Contractor acknowledges that in performing the Services under a Work Order it will supply the Services to the Territory in accordance with the provisions of this Deed and any additional terms and conditions specified in the Work Order.

**SIGNED AS A DEED** .....

**SIGNED, SEALED AND DELIVERED** )  
for and on behalf of the ) .....  
**AUSTRALIAN CAPITAL TERRITORY** ) Signature of Territory delegate  
in the presence of:

.....  
Signature of witness )  
.....  
Print name

.....  
Print name

**SIGNED, SEALED AND DELIVERED** )  
by or for and on behalf of ) .....  
**[NAME OF CONTRACTOR]** ) Signature of director/ authorised  
in the presence of: ) officer/ individual\*  
\*DELETE whichever is not applicable (see note below)

.....  
Signature of director/ secretary/ witness\* )  
\*DELETE whichever is not applicable (see note below) )  
.....  
Print name

.....  
Signature of second authorised officer\* )  
\*only use if Incorporated Association (see note below) )  
.....  
Print name

.....  
Print name



- Note:**
- Date: Must be dated on the date the last party signs the Deed or, if signed counterparts of the Deed are exchanged, the date of exchange. Also date the cover page.
  - Company: Must be signed in accordance with section 127 of the *Corporations Act 2001* (Cth), for example, by 2 directors or a director and a secretary. Common seal may be affixed if required under the Contractor’s constitution.
  - Individual: Must be signed by the individual Contractor and witnessed.
  - Incorporated Association: Must be signed in accordance with the Contractor’s constitution, which may or may not require the common seal to be affixed. As a minimum, 2 authorised officers must sign.

# ATTACHMENT 1

## Draft Work Order Template

See clause 1.1 and Schedule 4 of the Deed

[Note to drafters: Complete any items in red prior to issuing to a panel member. Some items will require Consultant input in order to finalise]

### WORK ORDER – ISSUED UNDER THE **[Enter Panel Deed Number]**

<b>Project Name:</b>	[enter Tender name]
<b>Project Number:</b>	[enter Tender number]
<b>Issue date:</b>	[enter issue date]
<b>Time and Date for submission of response:</b>	[enter date and time of submission]
<b>Acknowledgement of receipt of Work Order required?</b>	[enter Yes/No]
<b>Time for acknowledgement:</b>	[enter by COB date]
<b>Issued to:</b>	<b>Name:</b> [enter Consultant name]
	<b>ABN/ACN:</b> [enter ABN/ACN]
<b>Lodgement: through Tenders ACT</b> <a href="https://tenders.act.gov.au/ets/home.do">https://tenders.act.gov.au/ets/home.do</a>	

#### INSTRUCTIONS TO CONSULTANT:

Issued under and subject to the terms of panel deed No. **[Enter Panel Deed Number]** ('Deed'). Complete and sign this Work Order, addressing any assessment criteria or other matters notified by the Territory and submit your response to: **[Enter Tender Name]**

If the Consultant wishes to request any amendments to the Work Order, including requesting any Confidential Text, amend and sign the Work Order and return it to the Territory together with a document clearly detailing the changes requested to the Work Order. The Territory is not bound to accept any requested amendments. If the Consultant is assessed as the preferred panel member to provide the Works, the Territory and the Consultant must execute a final version of this Work Order prior to the commencement of the Services.

This Work Order complies with the *Government Procurement (Charter of Procurement Values) Direction 2020*, as detailed in Attachment A to this Work Order issued under the Infrastructure Commercial Advisors Panel.

For any questions about this Work Order, contact the Territory requesting officer:

Name: **[enter Territory requesting officer name]**

Phone: **[enter Territory requesting officer phone number]**

Email: **[enter Territory requesting officer email address]**

**Signature:**

\_\_\_\_\_

Item No	Item	Information Required						
1.	Directorate/  Agency:	[INSERT name of directorate or agency]						
2.	Consultant name:	<table border="1"> <tr> <td>Name:</td> <td>[enter Consultant name]</td> </tr> <tr> <td>ABN/ACN:</td> <td>[enter ABN/ACN]</td> </tr> </table>			Name:	[enter Consultant name]	ABN/ACN:	[enter ABN/ACN]
Name:	[enter Consultant name]							
ABN/ACN:	[enter ABN/ACN]							
3	Term of Work Order:	[INSERT period during which Services are to be provided, eg From [insert date] until [insert date]]						
4.	Nominated form of contract:  <i>See clause 1.6 of Schedule 4 of the Deed</i>	[INSERT nominated form of contract – eg Construction related consultancy agreement]						
5.	Services:  <i>See clauses 1.1 and 2 of the Deed</i>	Item	Details of Services [OR, delete this table and include the description of services as an attachment, appropriately cross-referenced here eg 'As set out in Attachment [x] to this work order'.	Timeframe for completion				
		1.	[INSERT full details of Services to be performed including, eg. Methodology, consultations, reports to be prepared and any timeframes for the performance of the Services eg. Provision of draft and final reports etc.]					
		2.	[INSERT full details of Services to be performed including, eg. Hold meetings (including meetings relating to planning, review and issue resolution) as necessary and report to the other on a regular basis in order to keep the other fully informed of the progress of work required under the Deed.]					
		3.	[INSERT details as required.]					
			[INSERT details as required.]					

6.	Assessment Criteria:	No	Assessment criteria	Weighting
	See clause 1.3 (4) of Schedule 4 of the Deed	1.	Tenderers to demonstrate an appreciation and understanding of the project requirements and tasks.	30%
		2.	Tenderers to provide a program to deliver the project within the required time frame.	15%
		3.	<p>Tenderers to provide details of the nominated staff to complete the project including:</p> <ul style="list-style-type: none"> <li>a. Primary lead/contact for the project</li> <li>b. List of nominated staff and their roles on the project</li> <li>c. Updated CVs</li> </ul> <p>Any additional proposed resources that are <b>NOT</b> included on the nominated Panel list (this must include a demonstration of their past performance, referees and CVs)</p>	20%
		4.	<p>Tenderers to provide the following:</p> <ul style="list-style-type: none"> <li>a. A completed Tender Pricing Schedule.</li> </ul>	25%
		5.	<p>Tenderers must complete and submit an Economic Contribution Test (ECT). The ECT requires Tenderers to provide information on how both their tender and business contribute to the economic benefit of the Canberra Region by providing the following information:</p> <ul style="list-style-type: none"> <li>a. Current business presence in the Canberra Region, including relevant capital investment history and/or new commitments;</li> <li>b. How the Tenderer will identify and consider products and capabilities provided by local businesses;</li> <li>c. The estimated number of labour hours associated with the head contract and the labour hours of local subcontractors within the head contract;</li> <li>d. Additional undertakings by the Tenderer to benefit the Canberra Region economy; and</li> </ul>	10%

Item No	Item	Information Required						
		<table border="1" data-bbox="432 203 1270 322"> <tr> <td data-bbox="432 203 531 322"></td> <td data-bbox="531 203 1078 322">Approach to workforce skilling and local skills (eg, through supply chain or local subcontractors).</td> <td data-bbox="1078 203 1270 322"></td> </tr> </table> <ul style="list-style-type: none"> <li>• Criteria weightings as guides only, adjust as necessary</li> </ul>		Approach to workforce skilling and local skills (eg, through supply chain or local subcontractors).				
	Approach to workforce skilling and local skills (eg, through supply chain or local subcontractors).							
7.	<b>Contract Price:*</b>  <i>See clauses 1.1 and 7 of the Deed</i>	\$ _____ (GST inclusive).  [OR if hourly rates are to be used, amend as required]						
8.	<b>Disbursements:</b>	Except if otherwise stated in the Deed or this Work Order, the Contract Price is inclusive of all disbursements, including out-of-pocket expenses incurred by the Consultant.  OR  [INSERT details if disbursements are to be paid in addition to the Contract Price, eg. specify categories of disbursements and upper limit payable by the Territory or whether disbursements are to be approved in advance before the Territory becomes liable. For example, if the Territory agrees to reimburse any travel, accommodation, meals or other expenses not included in the Contract Price.]						
9.	<b>Invoicing arrangements:</b>  <i>See clause 7.1 of the Deed</i>	The Contract Price is payable by instalments within 30 days of receipt by the Territory of an Invoice. Invoices may only be rendered in accordance with the following: <table border="1" data-bbox="432 1171 1477 1413"> <thead> <tr> <th data-bbox="432 1171 531 1240">No.</th> <th data-bbox="531 1171 1477 1240">When Invoice may be rendered</th> </tr> </thead> <tbody> <tr> <td data-bbox="432 1240 531 1346">1</td> <td data-bbox="531 1240 1477 1346">[Instructional Note: If appropriate, the instalments may be linked to the completion of milestones listed in <b>Item 5</b> of this Work Order.]</td> </tr> <tr> <td data-bbox="432 1346 531 1413">2</td> <td data-bbox="531 1346 1477 1413"></td> </tr> </tbody> </table> <p>[OR, is payable as a lump sum DELETE the above option, and include the below text:]</p> <p>The Contract Price is payable as a lump sum in arrears. An Invoice may only be rendered following completion of the Services.</p>	No.	When Invoice may be rendered	1	[Instructional Note: If appropriate, the instalments may be linked to the completion of milestones listed in <b>Item 5</b> of this Work Order.]	2	
No.	When Invoice may be rendered							
1	[Instructional Note: If appropriate, the instalments may be linked to the completion of milestones listed in <b>Item 5</b> of this Work Order.]							
2								
10.	<b>Program</b> <i>See clause 2.2 of the Deed</i>	Program is required / not required  (Program is not required if Item not completed)  Submit Program by: _____ [Insert time eg 7 days after execution of the Contract]						



Item No	Item	Information Required
		<p>In addition to any requirements set out in Item 11 Schedule 1 of the Deed, the following are requirements for the Program: [Insert any other requirements that are additional to any set out in Item 11 Schedule 1]:</p> <p>(1) [INSERT]</p> <p>(2) [INSERT]</p>
11.	<p><b>Confidential Text of Work Order</b></p> <p><i>See clause 11 of the Deed</i></p>	<p>Instructions to Consultant: The Territory may be required to publish a public text version of this Work Order if the Consultant is the preferred respondent. You may specify here any text within this Work Order that you wish to be considered confidential. Section 35 of the Procurement Act prescribes the only grounds on which information may be considered confidential. As an example, the following information may be considered confidential under the Act: specified personnel; individual components of pricing, and trade secrets or other information with a commercial value. Please refer to the Act for the full list of grounds available to satisfy the requirements of confidential text.</p>
12.	<p><b>Grounds for confidentiality of text</b><i>See clause 11 of the Deed</i></p>	<p>[To be completed following identification of preferred respondent]</p>
13	<p><b>Government Procurement (Charter of Procurement Values) Direction 2020</b></p>	<p>The <i>Government Procurement (Charter of Procurement Values) Direction 2020</i> applies to the Services being procured under this Work Order – Consultant to complete to <b>Attachment A</b> to identify applicable Procurement Values.</p>

Consultant's authorised representative: [Leave blank – Consultant to complete]			
Name:	_____	Signature:	_____
		Date:	_____
Position:	_____	Ph:	_____
		Email:	_____
Consultant's authorised representative: [Leave blank – Consultant to complete]			
Name:	_____	Signature:	_____
		Date:	_____
Position:	_____	Ph:	_____
		Email:	_____

The Consultant may not commence this work until this form has been signed by the Territory's approving delegate and returned to the Consultant, at which stage the draft work order becomes a final work order and, together with the terms of the Deed, forms the parties' Contract for the purposes of clause 1.1 the Deed.

**Territory's approving delegate:** I confirm that the above procurement complies with the *Government Procurement (Charter of Procurement Values Direction) 2020*, as detailed in Attachment A to this Work Order issued under the Infrastructure Advisors Panel.

[Leave blank until this form is signed by the Consultant and returned. Upon return of the form, a Territory delegate authorised to approve this commitment should complete this section. A copy of the fully executed form must then be given to the Contractor

Name:	_____	Signature	_____	Date:	_____
				(of contract)	
Position:	_____	Ph:	_____	Email:	_____

**Notes:**

*No contractual arrangement arises until the Consultant and the Territory's approving delegate have signed this work order. In addition to the matters set out in this work order, the provision of Services is subject to and must be read with the Deed.*

*\*Rates must not exceed the rates set out in the Consultant's Pricing Information in the Deed.*

## ATTACHMENT A TO WORK ORDER

### Consideration of Government Procurement (Charter of Procurement Values) Direction 2020

*(Forwarded with Work Order as a Returnable Schedule to nominated Territory Contract Officer to complete to confirm compliance with the Charter of Procurement Values)*

<b>Company Name:</b> insert nominated Panel Manager details
<b>Project Name:</b> insert project name
<b>Completed by:</b> insert details
<b>Date:</b> xx/xxxxxx/202x

In accordance with the Government Procurement (Charter of Procurement Values) Direction 2020, this procurement demonstrates outcomes in at least one of the following six Procurement Values:

	<b>Procurement Value Category</b>	<b>Application of Procurement Values for this Procurement</b> NOTE: Remove, add or complete examples of how the nominated Procurement Value(s) below as applicable and appropriate for this engagement
<b>1</b>	Does this procurement comply with the Employment of Aboriginal & Torres Strait Islander Peoples' Economic Participation Procurement Value?	If applicable, indicate how this Procurement Value was met (select one or more of the following options): <ul style="list-style-type: none"><li>○ engaged an Aboriginal and Torres Strait Islander Enterprise.</li><li>○ Aboriginal and Torres Strait Islander Enterprise Subcontractor.</li><li>○ Aboriginal and Torres Strait Islander Employment Targets.</li><li>○ other (please specify)....</li></ul>
<b>2</b>	Does this procurement comply with the Business Development and Innovation Procurement Value?	If applicable, indicate how this Procurement Value was met (select one or more of the following options): <ul style="list-style-type: none"><li>○ engaged a Canberra Region enterprise.</li><li>○ engaged a Small to Medium Enterprise.</li><li>○ complied with the Local Industry Participation Policy</li><li>○ entered an arrangement under the Guideline for Unsolicited Proposals.</li><li>○ other (please specify) ....</li></ul>

3	Does this procurement comply with the Gender Equality? Diversity and Inclusion Procurement Value?	If applicable, indicate how this Procurement Value was met (select one or more of the following options): <ul style="list-style-type: none"> <li>○ compliance with the <i>Workplace Gender Equality Act 2012</i> (Cth).</li> <li>○ engaged a Social Enterprise.</li> <li>○ other (please specify) ....</li> </ul>
4	Does this procurement comply with the Environmentally Responsible Procurement Value?	If applicable, indicate how this Procurement Value was met (select one or more of the following options): <ul style="list-style-type: none"> <li>○ compliance with the <i>Sustainable Procurement Policy 2015</i> (ACT).</li> <li>○ other (please specify) ....</li> </ul>
5	Does this procurement comply with the Fair and Safe Conditions for Worker Procurement Value?	If applicable, indicate how this Procurement Value was met (select one or more of the following options): <ul style="list-style-type: none"> <li>○ compliance with the <i>Secure Local Jobs Code 2019</i>.</li> <li>○ ACT Work Health Safety <i>Active Certification Policy</i>.</li> <li>○ Guidelines for Managing Work Health and Safety on construction work with a value of \$250,000 or more.</li> <li>○ other (please specify) .....</li> </ul>
6	Does this procurement comply with the Transparent and Ethical Engagement Procurement Value?	If applicable, indicate how this Procurement Value was met (select one or more of the following options): <ul style="list-style-type: none"> <li>○ Modern Slavery Requirements included in Tender and Contract</li> <li>○ ACT Government Prequalification Scheme</li> <li>○ An Advance Tender Notice was published in relation to the procurement activity prior to approach to market</li> <li>○ Supplier completed an Ethical Suppliers Declaration</li> <li>○ other (please specify) .....</li> </ul>

## ATTACHMENT B TO WORK ORDER

- Delete if not required

## **ATTACHMENT 2**

### **Pricing Information**

**[Attach Pricing Information, or “Not Used”]**

# ATTACHMENT 3

## ETHICAL SUPPLIERS DECLARATION

### Statutory Declarations Act 1959 (Cth)

I, [Name, address and occupation of person making declaration] make the following declaration under the Statutory Declarations Act 1959 (Cth),

1. In this declaration a reference to:

**“Adverse Ruling”** means a ruling, order, notice (including without limitation any improvement notice or prohibition notice), conviction or finding made or issued by any Authorised Entity;

**“Authorised Entity”** means any court, tribunal, board, commission, regulatory agency (including without limitation the director-general, commissioner, regulator or any inspector referred to in the Prescribed Legislation) or other entity with jurisdiction to determine employee and industrial relations matters or work health and safety matters to the effect that the Contractor has contravened the Prescribed Legislation;

**“Consultant”** means a consultant engaged by the Contractor to provide professional services. It includes a consultant whose contract with the Principal is novated to one with the Contractor;

**“Contract”** means an agreement which has or will shortly be entered into between the Australian Capital Territory and the Contractor for the provision of works in respect of the Project;

**“Contractor”** means [insert full legal name of Supplier including the ACN/ABN as per that identified on the Contract];

**“Employee”** means a natural person who is employed under a contract of service (excluding professional or information technology services) to provide the Contractor or a Subcontractor with his or her labour;

**“Industrial Instruments”** means an award or agreement, however designated, that:

- (a) is made under or recognised by an industrial law; or
- (b) concerns the relationship of an employer and the employer’s employees;

**“Prescribed Legislation”** means all applicable Acts and subordinate instruments of the Commonwealth and the Territory, which deal with matters relating to industrial relations, employment and/or workplace safety obligations that apply to an entity including (as amended or replaced from time to time) but not limited to:

- (a) *Fair Work Act 2009* (Cth);
- (b) *Fair Work (Building Industry) Act 2012* (Cth);

- (c) *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cth);
- (d) *Income Tax Assessment Act 1997* (Cth);
- (e) *Independent Contractors Act 2006* (Cth);
- (f) *Industry Research and Development Act 1986* (Cth);
- (g) *Long Service Leave Act 1976* (ACT);
- (h) *Long Service Leave (Portable Schemes) Act 2009* (ACT);
- (i) *Migration Act 1958* (Cth);
- (j) *Paid Parental Leave Act 2010* (Cth);
- (k) *Payroll Tax Act 2011* (ACT);
- (l) *Safety, Rehabilitation and Compensation Act 1988* (Cth);
- (m) *Superannuation Guarantee (Administration) Act 1992* (Cth);
- (n) *Superannuation Guarantee Charge Act 1992* (Cth);
- (o) *Work Health and Safety Act 2011* (ACT);
- (p) *Workers' Compensation Act 1951* (ACT);
- (q) *Workplace Gender Equality Act 2012* (Cth);

**“Project”** means Project No [insert ACT Government Project no] for [insert sufficient details to identify nature of project];

**“Prescribed Works or Services”** means works or services that require the exertion of labour by Employees;

**“Secure Local Jobs Code Certificate”** has the meaning given by the *Government Procurement Act 2001*;

**“Subcontractor”** includes a sub-subcontractor;

**“Supplier”** means an entity engaged by the Contractor to supply part of the Project; and

all other capitalised words or terms have the same meaning as defined in the Contract.

2. I am authorised on behalf of the Contractor to make this declaration.
3. All Employees of the Contractor who have at any time been employed by the Contractor in respect of the Project have, at the date of this statutory declaration, been paid all moneys due and payable to them in respect of their employment on the work under the Contract.
4. The Contractor has made provision for all other benefits (as required by Prescribed Legislation and any Industrial Instruments) accrued in respect of its Employees as at the date of this statutory declaration.
5. All Subcontractors, Suppliers and Consultants have been paid all amounts payable to each of them by the Contractor as at the date of this statutory declaration with respect to engagement by each of them for the performance of work or the supply of materials for or in connection with the Contract.



6. All workers compensation insurance premiums payable by the Contractor to the date of this statutory declaration in respect of the work done in connection with the Contract have been paid.
7. All payroll tax payable by the Contractor in respect of wages paid or payable to the relevant Employees of the Contractor for work done in connection with the Contract to the date of this statutory declaration has been paid.
8. The Contractor holds a current Secure Local Jobs Code Certificate.
9. The Contractor has in the preceding 24 months of the date of this declaration complied with all applicable Industrial Instruments.

True (delete 9A and initial)                       Not true (answer 9A)

- 9A. The Contractor has not complied with the following Industrial Instruments in the following respects.

**[Insert full details of failure to comply with Industrial Instruments]**

10. The Contractor has in the preceding 24 months of the date of this declaration complied with all Prescribed Legislation

True (delete 10A and initial)                       Not true (answer 10A)

- 10A. The Contractor has not complied with the following Prescribed Legislation.

**[Insert Full Details of the failure to comply with Prescribed Legislation]**

11. The Contractor has in the preceding 24 months of the date of this declaration recognised the rights of its Employees to union membership and representation.

True (delete 11A and initial)                       Not true (answer 11A)

- 11A. The Contractor has not recognised the rights of Employees to union membership and representation in the following respects.

**[Insert Full Details of how the Contractor has not recognised the rights of Employees to union membership and representation]**

12. The Contractor has in the preceding 24 months of the date of this declaration complied with all amendments to wages and conditions of employment for their Employees as decided by any authorised industrial or wage-setting agency.

True (delete 12A and initial)                       Not true (answer 12A)

- 12A. The Contractor has not complied with all amendments to wages and conditions of employment for their Employees as decided by any authorised industrial or wage-setting agency in the following respects:

**[Insert Full Details of how the Contractor has failed to comply with all amendments to wages and conditions of employment]**

13. In the preceding 24 months of the date of this declaration there have been no findings against the Contractor by any Authorised Entity, including a finding of a breach in a non-confidential consent order.

True (delete 13A and initial)  Not true (answer 13A)

- 13A. There have been the following findings (Full Details of which are provided) against the Contractor by an Authorised Entity:

**[Set out Full Details of findings]**

14. In the preceding 24 months of the date of this declaration there have been no Adverse Rulings under the Prescribed Legislation against the Contractor.

True (delete 14A and initial)  Not true (answer 14A)

- 14A. There have been the following Adverse Rulings under the Prescribed Legislation against the Contractor:

**[Set out Full Details of convictions]**

15. There are currently no proceedings or prosecutions against the Contractor in respect of a breach of any Prescribed Legislation.

True (delete 15A and initial)  Not true (answer 15A)

- 15A. There are currently the following proceedings or prosecutions against the Contractor in respect of a breach of Prescribed Legislation.

**[Set out Full Details of proceedings or prosecutions]**

16. The Contractor has not been required to implement any remedial measures to ensure future compliance with the Prescribed Legislation.

True (delete 16A and initial)  Not true (answer 16A)

- 16A. The Contractor has been required to implement the following remedial measures to ensure future compliance with the Prescribed Legislation:

**[Set out Full Details of the remedial measures implemented]**

I understand that a person who intentionally makes a false statement in a statutory declaration is guilty of an offence under section 11 of

the Statutory Declarations Act 1959, and I believe that the statements in this declaration are true in every particular.

\_\_\_\_\_  
[Signature of person making the declaration]]

\_\_\_\_\_  
[Print name of person making the declaration]

Declared at [place] on [day] of [month] [year]

Before me:

\_\_\_\_\_  
[Signature of person before whom the declaration is made]

\_\_\_\_\_  
[Full name, qualification and address of person before whom the declaration is made (in printed letters)]

**Note 1** A person who intentionally makes a false statement in a statutory declaration is guilty of an offence, the punishment for which is imprisonment for a term of 4 years – see section 11 of the Statutory Declarations Act 1959.

**Note 2** Chapter 2 of the Criminal Code applies to all offences against the Statutory Declarations Act 1959 – see section 5A of the Statutory Declarations Act 1959.

**A statutory declaration under the Statutory Declarations Act 1959 may be made before–**

- (1) A person who is currently licensed or registered under a law to practise in one of the following occupations:
- |                      |                      |                    |
|----------------------|----------------------|--------------------|
| Chiropractor         | Dentist              | Legal practitioner |
| Medical practitioner | Nurse                | Optometrist        |
| Patent attorney      | Pharmacist           | Physiotherapist    |
| Psychologist         | Trade marks attorney | Veterinary surgeon |

- (2) A person who is enrolled on the roll of the Supreme Court of a State or Territory, or the High Court of Australia, as a legal practitioner (however described); or

- (3) A person who is in the following list:

Agent of the Australian Postal Corporation who is in charge of an office supplying postal services to the public  
Australian Consular Officer or Australian Diplomatic Officer (within the meaning of the Consular Fees Act 1955)

Bailiff

Bank officer with 5 or more continuous years of service

Building society officer with 5 or more years of continuous service

Chief executive officer of a Commonwealth court

Clerk of a court

Commissioner for Affidavits

Commissioner for Declarations

Credit union officer with 5 or more years of continuous service

Employee of the Australian Trade Commission who is:

(a) in a country or place outside Australia; and

(b) authorised under paragraph 3 (d) of the Consular Fees Act 1955; and

(c) exercising his or her function in that place

Employee of the Commonwealth who is:

- (a) in a country or place outside Australia; and
- (b) authorised under paragraph 3 (c) of the Consular Fees Act 1955; and
- (c) exercising his or her function in that place

Fellow of the National Tax Accountants' Association

Finance company officer with 5 or more years of continuous service

Holder of a statutory office not specified in another item in this list

Judge of a court

Justice of the Peace

Magistrate

Marriage celebrant registered under Subdivision C of Division 1 of Part IV of the Marriage Act 1961

Master of a court

Member of Chartered Secretaries Australia

Member of Engineers Australia, other than at the grade of student

Member of the Association of Taxation and Management Accountants

Member of the Australasian Institute of Mining and Metallurgy

Member of the Australian Defence Force who is:

- (a) an officer; or
- (b) a non-commissioned officer within the meaning of the Defence Force Discipline Act 1982 with 5 or more years of continuous service; or
- (c) a warrant officer within the meaning of that Act

Member of the Institute of Chartered Accountants in Australia, the Australian Society of Certified Practising Accountants or the National Institute of Accountants

Member of:

- (a) the Parliament of the Commonwealth; or
- (b) the Parliament of a State; or
- (c) a Territory legislature; or
- (d) a local government authority of a State or Territory

Minister of religion registered under Subdivision A of Division 1 of Part IV of the Marriage Act 1961

Notary public

Permanent employee of the Australian Postal Corporation with 5 or more years of continuous service who is employed in an office supplying postal services to the public

Permanent employee of:

- (a) the Commonwealth or a Commonwealth authority; or
- (b) a State or Territory or a State or Territory authority; or
- (c) a local government authority;

with 5 or more years of continuous service who is not specified in another item in this list

Person before whom a statutory declaration may be made under the law of the State or Territory in which the declaration is made

Police officer

Registrar, or Deputy Registrar, of a court

Senior Executive Service employee of:

- (a) the Commonwealth or a Commonwealth authority; or
- (b) a State or Territory or a State or Territory authority

Sheriff

Sheriff's officer

Teacher employed on a full-time basis at a school or tertiary education institution