



# ALTERNATIVE CARE ARRANGEMENTS STANDING OFFER AGREEMENT

BETWEEN

**The Minister for Families, Communities and Disability Services  
for and on behalf of the State of New South Wales, acting through  
the Department of Communities and Justice**

**ABN 80 597 369 676  
(DCJ)**

AND

**Agency name  
ABN #**

**(Service Provider)**

**EXECUTED as a deed**

**SIGNED, SEALED AND DELIVERED** by )  
the signatory pursuant to the authority )  
vested in him/her under an instrument of )  
delegation executed by the Minister for )  
Families, Communities and Disability )  
Services, New South Wales but not so as to )  
incur any personal liability in the presence )  
of: )

\_\_\_\_\_  
Signature of authorised representative

\_\_\_\_\_  
Name of authorised representative  
(block letters)

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name of witness (block letters)

**SIGNED SEALED AND DELIVERED** by )  
**BBBBBBBBBB** in accordance with section )  
127(1) of the *Corporations Act 2001* (Cth) by )  
authority of its directors: )  
)  
)

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised representative

\_\_\_\_\_  
Name of witness (block letters)

\_\_\_\_\_  
Name of authorised representative (block  
letters)

# STANDING OFFER AGREEMENT DETAILS

---

**Agreement Commencement Date (Clause 14)**

---

<b>DCJ Representative (Clause 10.1) and notices (Clause 15)</b>  <i>[this officer is authorised by the contract to take the actions allocated to the DCJ Representative, in accordance with the Contract]</i>	Name
	Position
	Address
	Facsimile
	Email

---

<b>Service Provider's Representative (Clause 10.1) and notices (Clause 15)</b>	Name
	Position
	Address
	Facsimile
	Email

## GENERAL TERMS

### Terms of the agreement made by this deed

#### 1 Supply arrangement

##### 1.1 Standing offer

The Department of Communities and Justice is the NSW Government agency which has care of the child and young person (**child or young person**) (as defined in Schedule 1). With this deed, DCJ is establishing a panel of suppliers (of which the Service Provider is becoming a member on the execution of this deed) which are capable and prepared to provide specific Services to the child or young person as a contractor at the request of DCJ. This deed sets out the terms on which the Service Provider will provide the Services to the child or young person from time to time.

##### 1.2 Contract structure

This deed of Agreement consists of the following parts:

- (a) the General Terms – the clauses of these General Terms set out the contractual framework under which the Service Provider will supply Services
- (b) the Standing Offer Agreement Details – the details set out the key commercial variables applicable to this deed
- (c) Schedule 1 – the Dictionary
- (d) Schedule 2 – Services to be provided and corresponding services fees, and
- (e) **Error! Reference source not found.** – the form of Request for Service.

If there is any inconsistency between any of the parts of this deed, then the part listed higher in this clause 1.2 prevails to the extent of the inconsistency.

##### 1.3 Services

The Services which the Service Provider is prepared to provide to the child or young person as a contractor at the request of DCJ on a fee-for-service basis shall be listed in *Schedule 2*. The list of Services may include one or more of the following services:

- (a) Emergency accommodation to children and young people
- (b) Emergency care to children and young people
- (c) Supervision of the provision of care to children and young people
- (d) Behavioural support and management
- (e) Disability

##### 1.4 Request for Service

Upon the execution of this deed any Authorised Representative of DCJ is entitled to place a Request for Service in the form specified in **Error! Reference source not found.** for the supply of the Services by the Service Provider to a specific child or young person on the terms and conditions this deed. Each Request for Service placed in accordance with this deed will create a separate Contract between the Service Provider and DCJ for the supply of the Services specified in that Request for Service fully incorporating all the terms of this deed.

##### 1.5 No exclusivity or minimum order

The Service Provider acknowledges that it is not the exclusive supplier of the Services, and DCJ may at any time during the Term acquire such Services or any part of them from a third party and DCJ may appoint other suppliers to provide services similar to the Services to the child or young person. For the avoidance of doubt DCJ is under no obligation to place any Request for Services or acquire any minimum quantity of Services from the Service Provider pursuant to this deed.

## **1.6 Cancellation of a Request for Service or episode of service**

The Service Provider agrees that DCJ is entitled to cancel any Request for Service in full or in part or any episode of service by notifying the relevant representative of the Service Provider of the cancellation. Where an entire or the remaining part of a Request for Service is to be cancelled, DCJ will notify the Service Provider **five (5) working days** before the originally agreed time for commencement of the service or the time of the next scheduled service. Where an episode of service is to be cancelled, cancellation timeframe is provided in the Schedule 2 – Supply Schedule of this agreement. The Service Provider agrees no penalty or fee will be charged in respect of the cancellation of any Request for Service or episode of service.

## **2 Taxes**

### **2.1 Taxes**

The Service Provider is responsible for all Taxes arising from or relating to this deed, and must pay Taxes which are imposed on the Service Provider arising from or relating to this deed except for any income tax or capital gains tax payable by DCJ.

### **2.2 GST**

The parties agree that:

- (a) if a supply under this deed is subject to GST, and the consideration payable or to be provided for the supply is not inclusive of GST, then the party receiving the supply must pay to the party making the supply an additional amount equal to the Amount of the Consideration multiplied by the applicable GST rate
- (b) the additional amount is payable at the same time as the consideration for the supply is payable
- (c) if the additional amount differs from the amount of GST payable by the party making the supply, the parties must adjust the additional amount, and
- (d) if a party is entitled to be reimbursed or indemnified under this deed, the amount to be reimbursed or indemnified does not include any amount for GST for which the party is entitled to an Input Tax Credit.

## **3 Service Provider's Personnel**

### **3.1 Working with children and criminal records checks**

- (a) The Service Provider acknowledges that it is an employer as defined in Section 9 of the *Child Protection (Working with Children) Act 2012* and that the Service Provider and its agents must ensure all staff employed or engaged in child-related work hold a current working with children check clearance.
- (b) The Service Provider represents and warrants to DCJ the Service Provider's current process of recruitment of employees and contractors requires that working with children checks and national criminal record checks must be completed before all volunteers, employees and contractors commence work with the Service Provider.

### **3.2 Equal employment opportunity**

The Service Provider undertakes to comply with all State laws concerning equal employment opportunity, anti-discrimination and affirmative action in all staffing matters relating to the implementation of this deed. Staff matters include advertising, selection procedures, staff training, employment practices and separation practices.

### **3.3 Qualifications and recruitment of staff**

In connection with providing the Services, the Service Provider must employ or engage staff with appropriate qualification and training to properly and adequately perform the services as described in Schedule 2 – Supply Schedule. The Service Provider undertakes to:

- (a) Assess the suitability and skills of staff to care for vulnerable children and young people through appropriate recruitment and selection processes that includes interviews and referee checks
- (b) Ensure that its staff providing the Services have the following minimum qualifications and experience in caring for vulnerable children and young people:
  - a. Qualifications in youth work, community services, health services, social welfare, disability or substantial experience in one or more of those areas
  - b. Experience in caring for vulnerable children and young people, and
  - c. A first aid certificate.
- (c) Provide adequate training to all of its staff, contractors and volunteers that includes: managing challenging behaviours, trauma informed care, and caring for vulnerable children and young people.
- (d) Ensure all of its staff, contractors and volunteers have received training, and comply with the out-of-home care standards as published from time to time by the Children's Guardian.

### **3.4 Authorisation of staff – screening and probity checks**

- (a) The Service Provider acknowledges that parts of DCJ are designated agencies which include Accredited DCJ Districts or DCJ business units (**DCJ Districts**).
- (b) The Principal Officers of the DCJ Districts (**Principal Officers**) are required to authorise all staff of the Service Provider who will provide care to the child or young person (**relevant staff**) as authorised carers under clause 31B of the *Children and Young Persons (Care and Protection) Regulation 2012*.
- (c) As part of the Authorisation process, the Principal Officers will conduct their own screening and probity checks and assessments, including ChildStory checks of the relevant staff and any children formerly and/or currently in the care of the relevant staff, as part of their assessment of whether the relevant staff are safe and suitable to work with the child or young person.
- (d) The Principal Officers have sole discretion in determining whether or not to authorise the relevant staff.
- (e) The Principal Officers may carry out screening and probity checks at any time and may conduct such other investigations and assessments as the Principal Officers consider appropriate or as required by law.
- (f) The Service Provider agrees to:
  - (i) Provide all relevant information and records regarding the relevant staff to DCJ including, but not limited to:
    - (1) Current working with children's check clearances
    - (2) National criminal record checks
    - (3) Reference checks
    - (4) Employment history
    - (5) Relevant personnel records, including records of any complaints or reportable allegations made against the staff member and the outcome of any such complaints or reportable allegations.
  - (ii) Provide any documents and/or forms to relevant staff for their completion so that DCJ can conduct suitability and probity checks
  - (iii) Obtain all necessary consent from the relevant staff to enable DCJ to conduct the screening and probity checks
  - (iv) Obtain information about previous employment of the relevant staff including names of referees and past managers and/or supervisors, upon request

- (v) Immediately notify DCJ of any complaint or Reportable Allegation made against the relevant staff
  - (vi) **Before** investigating any complaint or Reportable Allegation made against the relevant staff, notify DCJ and seek advice or directions
  - (vii) Provide, as soon as possible, all relevant documents and information regarding any complaint or allegation of Reportable Allegation and the outcome of any action taken by the Service Provider to investigate the complaint or allegation, and
  - (viii) Provide any other assistance, as requested, relating to the authorisation of the relevant staff by the Principal Officer.
- (d) DCJ will inform the Service Provider of the outcome of its assessment of the relevant staff and whether the relevant staff are authorised as authorised carers.
  - (e) If a relevant staff member is not authorised by DCJ, DCJ will provide the Service Provider with its reasons, and share relevant information with the Service Provider so that the Service Provider may conduct its own assessment of the relevant staff, such as suitability and risk assessments.
  - (f) Only the relevant staff who have been authorised by the Principal Officer are permitted to provide the Services.
  - (g) The DCJ Districts are responsible for supervising the placement of children and young people in the care of the authorised relevant staff.

### **3.5 Induction and training of relevant staff**

- (g) DCJ may require relevant staff to attend induction and/or other training prior to or during the provision of the Services.
- (h) The Service Provider agrees to facilitate the attendance of the relevant staff at such inductions and/or training.

## **4 Child protection responsibility**

### **4.1 Complaints and reportable conduct**

- (a) The Service Provider acknowledges that the Principal Officers, as heads of the designated agencies who are responsible for authorising the relevant staff as authorised carers, have an obligation to notify the Ombudsman of any Reportable Allegations made in relation to the relevant staff and to investigate allegations of Reportable Conduct.
- (b) The DCJ Reportable Conduct Unit (**RCU**) is responsible for investigating any Reportable Allegations made in relation to the relevant staff who have been authorised as authorised carers by the Principal Officer.
- (c) The Service Provider agrees to:
  - (i) facilitate DCJs access to the relevant staff to enable DCJ officers to investigate a complaint or allegation of reportable allegation, interview the relevant staff and obtain their response and other information relating to the complaint or allegation
  - (ii) Provide all relevant documents and information in complete and unedited form held by the Service Provider in relation the relevant staff and/or the complaint or allegation
  - (iii) Provide all assistance requested by DCJ relating to the investigation, and
  - (iv) Otherwise cooperate with the DCJ investigation.
- (d) The RCU will to notify the Office of the Children’s Guardian of any relevant misconduct findings it makes in relation to the conduct of an authorised carer. DCJ is also obliged to investigate any complaint or risk of significant harm report made in relation to the relevant staff.

- (e) In their sole discretion, the DCJ Districts may cancel or suspend the authorisation of the relevant staff at any time.

#### **4.2 Ombudsman Act 1974**

If the Service Provider is a '*designated non-government agency*' as described in Part 3A of the *Ombudsman Act 1974* it must ensure that all of the obligations required of '*designated non government agency*' under Part 3A are met.

#### **4.3 Prohibited Person**

The Service Provider undertakes to ensure that a Prohibited Person, or a person who is the subject of a child abuse allegation or investigation, does not undertake child-related employment under this Agreement.

#### **4.4 Exchange of information**

The Service Provider hereby authorises DCJ to make available to the Office of the Children's Guardian any information relating to the provision of Services by the Service Provider to any child or young person. The Service Provider authorises the Office of the Children's Guardian and her employees and agents to make available to DCJ any information relating to the provision of Services, including information concerning the safety, welfare and wellbeing of children and young persons.

### **5 Children and young people**

#### **5.1 Information about the child or young persons**

Subject to any applicable laws, DCJ will provide the Service Provider with all relevant information relating to the child or young person's needs and how best to meet those needs, including the child or young person's

- (a) case plan
- (b) relevant health and medical information or plan
- (c) any behaviour support plan
- (d) any education plan
- (e) other relevant information.

### **6 Invoicing**

#### **6.1 Invoice Timing**

The Service Provider will issue an invoice for the service provided in accordance with the provided Invoice Timing or, if there is no Invoice Timing established for the relevant services, the Service Provider agrees to render the invoices within three (3) months after the service has been provided. The Service Provider agrees to waive the claim for all service fees and reimbursement for any service if the Service Provider fails to render an invoice for that service within the three (3) month period.

#### **6.2 Correctly rendered invoice**

For the purposes of the individual contract created by each Request for Service, an invoice is not correctly rendered unless:

- (a) the invoice is a Tax Invoice
- (b) the Service Provider is entitled to issue the invoice under clause 6.1 (Invoice Timing)
- (c) the amount claimed in the invoice is correctly calculated under the relevant Request for Service
- (d) the invoice includes the relevant Request for Service number and is addressed to DCJ Representative and set out in a manner that identifies the Request for Service, the



Services which the invoice covers and itemises each amount claimed, to a level of detail satisfactory to DCJ Representative acting reasonably, and

- (e) the invoice is accompanied by documents that adequately demonstrate to DCJ Representative the Services that were performed and the basis on which the amounts are claimed.

### **6.3 Reimbursement of miscellaneous expenses**

For the avoidance of doubt the Service Provider is not entitled to claim any reimbursement of expenses except:

- (a) The expenses have been listed in the relevant Request for Service, or
- (b) The expenses have been approved in writing by DCJ Representative prior to expense being incurred.

## **7 Confidentiality and publicity**

### **7.1 Confidentiality**

The Service Provider undertakes not to disclose to any person other than DCJ any Confidential Information relating to this Deed, without prior written approval from DCJ.

### **7.2 Code of Conduct**

The Service Provider acknowledges that relevant staff must comply with the DCJ Code of Ethical Conduct and current OOH standards as endorsed by the Children's Guardian.

### **7.3 Disclosure of details of DCJ contracts with the private sector**

The Service Provider acknowledges that DCJ may be required to publish certain information concerning this deed in accordance with ss 27 – 35 of the *Government Information (Public Access) Act 2009 (NSW)*. If the Service Provider reasonably believes that any part of this deed contains information which is commercial-in-confidence or could reasonably be expected to affect public safety or security, then the Service Provider should immediately advise DCJ in writing, identifying the provisions and providing reasons so that DCJ may consider seeking to exempt those provisions from publication.

### **7.4 No disclosure of the terms of this deed**

Subject to clauses 7.3 (Disclosure of details of DCJ contracts with the private sector), except as otherwise agreed or required by law, any regulatory authority or stock exchange, neither party may disclose the terms of this deed to any person other than its Representatives on a confidential basis.

### **7.5 Special statutory requirements**

The Service Provider acknowledges that it is subject to and undertakes to strictly comply with:

- (a) section 76 of the *Community Welfare Act 1987 (NSW)*
- (b) section 45 of the *Child Protection (Working with Children) Act 2012 (NSW)* and
- (c) section 254 of the *Children and Young Persons (Care and Protection) Act 1998 (NSW)*.

### **7.6 Information Security**

The Service Provider must protect and manage all information relating to the child or young person and the performance of this Deed in a manner that is consistent with AS/NZS ISO/IEC 27001:2006, Information technology, Security techniques, Information security management systems.

### **7.7 Publicity**

The Service Provider may only make press releases or other announcements or releases about this deed and the transactions related to it:

- (a) with the express, written approval of DCJ, or

- (b) as required to be made by law or the rules of a stock exchange provided that the Service Provider gives DCJ as much prior notice as is reasonably practicable and the opportunity to review and comment on the form and text of the disclosure before the disclosure is made.

## 8 Privacy

### 8.1 Compliance with privacy requirements

Without limiting any obligation that the Service Provider has under any applicable privacy laws, the Service Provider undertakes to comply with the following in performing this deed:

- (a) The *Privacy and Personal Information Protection Act 1998 (NSW)*, as if the Service Provider were a public sector agency for the purposes of that Act
- (b) The *Health Records and Information Privacy Act 2002 (NSW)*
- (c) The *Privacy Act 1988 (Cth)*, and
- (d) all other applicable privacy laws and such other data protection laws as may be in force from time to time which regulate the collection, storage, use and disclosure of information, as if it were regulated by those laws
- (e) The DCJ privacy policies (and each specific privacy policy of DCJ in relation to the collection and/or handling of personal or private information relating to third parties including the obtaining of any necessary consents to its use by DCJ or by third parties) as notified in writing to the Service Provider from time to time as if it were bound by that policy
- (f) All directions by DCJ:
  - (i) relating to the means by which DCJ complies with the *Privacy and Personal Information Protection Act 1998 (NSW)*, DCJ privacy policies, and all other applicable laws, codes and privacy policies, and
  - (ii) co-operate with DCJ in the resolution of any complaint alleging a breach of such laws, codes or privacy policy.

## 9 Information and Records

### 9.1 Provide information

On request by DCJ or DCJ Representative, the Service Provider will promptly provide all reasonable assistance to enable DCJ to comply with its obligations under this deed and at law, including providing details of any person (for example, a related body corporate or any other private sector entity in which the Service Provider has an interest) that:

- (a) will be involved in performing any of the Service Provider's obligations under this deed; or
- (b) will receive a benefit under this deed.

This clause survives the termination of this deed for any reason whatsoever.

### 9.2 Records

The Service Provider must, and must ensure all Subcontractors:

- (a) establish and maintain clear operational records for this Agreement and for each Request for Service, in a form that meets appropriate record-keeping standards and all applicable legislative requirements
- (b) retain the records referred to in clause 9.2 throughout the term of this Agreement and for 7 years after the expiry or termination of this Deed, or as otherwise required under legislation or specified in writing by DCJ
- (c) ensure that, in the event that the Service Provider ceases to operate, the records referred to in clause 9.2(a) remain accessible to DCJ for 7 years after the expiry or termination of this Deed, or as otherwise required under legislation or specified in writing by DCJ

- (d) dispose of the records referred to in clause 9.2(a), once they are no longer required to be maintained in accordance with clause 9.2(b) or 9.2(c), in accordance with sound records management practice, or as otherwise specified in writing by DCJ.

### **9.3 Inspection**

The Service Provider must, and must ensure all Subcontractors:

- (a) make the records referred to in clause 9.2 available for inspection and/or audit as reasonably required by DCJ, DCJ Representative, a regulator, any external auditor or advisor or any of their authorised representatives, during normal business hours. Copies and extracts of any such records may be taken for these purposes
- (b) permit DCJ or DCJ Representative to inspect or appoint a third party to inspect the Service Provider's premises to confirm compliance with this deed, and
- (c) provide all appropriate resources and all reasonable assistance required by any person conducting any inspection and/or audit, and fully co-operate with that person in good faith and at the Service Provider's sole cost.

### **9.4 Access to information under section 121 GIPA Act**

- (a) This clause 9.4 only applies to the extent that the Service Provider is required to provide goods or services to the public on behalf of DCJ.
- (b) Within 3 days of receiving a written request by DCJ the Service Provider must provide DCJ with immediate access to information referred to in Section 121(1) of the Government Information (Public Access) Act 2009 (NSW) (but excluding information referred to in Section 121(2) of the Government Information (Public Access) Act 2009 (NSW)) contained in records held by the Service Provider at the Service Provider's expense and in such medium as DCJ may reasonably require.
- (c) The DCJ will consult with the Service Provider before releasing any information obtained from the Service Provider where required under Section 54 of the *Government Information (Public Access) Act 2009 (NSW)*.

## **10 Representatives, reporting and audits**

### **10.1 Responsibilities**

The DCJ Representative and the Service Provider Representative will be responsible for the co-ordination and management between the parties of this deed, including ensuring the performance by the parties of their respective roles and responsibilities.

### **10.2 Review meetings**

The Service Provider Representative must attend meetings with DCJ Representative at a place and time to be notified to the Service Provider by DCJ Representative on the frequency required by DCJ Representative. The DCJ Representative will send an agenda for the review meeting prior to the meeting.

### **10.3 Annual audit**

The DCJ may conduct itself, or appoint a third party to conduct, an audit of the Service Provider's performance and compliance with this deed and the Request for Services.

### **10.4 Costs of audit**

The auditor's costs incurred by DCJ in the audit under clause 10.3 (Annual audit) will be paid by DCJ. However, where the auditor objectively identifies breaches of this deed or any Request for Service by the Service Provider, all the costs of DCJ (including third party auditor fees) in respect of that audit will be paid by the Service Provider.

### **10.5 Costs**

Unless expressly provided otherwise in this clause 10, DCJ and the Service Provider will each pay their own costs and expenses in connection with this clause 10.

## **11 Change control**

### **11.1 Change request**

Either party may request a change to the scope or description of any Services or the requirements of a Supply Schedule (each a "Change") by issuing a notice in writing to the other party.

### **11.2 Change request by DCJ**

If a Change is requested by DCJ or DCJ Representative, the Service Provider must provide to DCJ Representative within 10 Business Days of receiving the notice of request, or such other period as the parties may agree, a Change Proposal which complies with clause 11.5 (Requirements for Change Proposal).

### **11.3 Change request by Service Provider**

If the Change is requested by the Service Provider, the Service Provider must include a Change Proposal with the request for Change or provide the Change Proposal at such later date as the parties may otherwise agree.

### **11.4 Assistance from DCJ**

Where the Service Provider requires information from DCJ in order to properly prepare a Change Proposal, DCJ will provide or arrange for DCJ Representative to provide available information reasonably requested promptly within a reasonable period from the date of the request.

### **11.5 Requirements for Change Proposal Each Change Proposal must:**

- (a) set out a full description of the Change, and
- (b) specify all changes to the relevant Contract Price, the relevant timeframes and any other conditions which the Service Provider reasonably requires in order to perform the Change and must detail reasons for those changes
- (c) Any adjustment to the Contract Price must be based on the Service Provider's actual direct costs as a result of the Change, including a reasonable profit allowance.

### **11.6 Acceptance or rejection of a Change Proposal**

The DCJ Representative may accept or reject a Change Proposal at any time within 20 Business Days of receiving the Change Proposal. Where DCJ Representative accepts a Change Proposal, the parties will execute a Change Notice on those terms and this deed will be varied accordingly, with effect from the date of execution of the Change Notice.

## **12 Warranties and representations**

### **12.1 Service Provider's general representations and warranties**

The Service Provider represents and warrants on the date of this deed and at all time during the Term, that:

- (a) it has full capacity and authority to enter into and to perform this deed
- (b) this deed is approved by the duly authorised representative of that party
- (c) there are no actions, suits or proceedings pending or, to that party's knowledge, threatened against or affecting that party before any court or administrative body or arbitral tribunal that might affect the ability of that party to meet and carry out its obligations under this deed
- (d) once duly signed this deed will constitute a legal, valid and binding obligation on that party, and
- (e) to the best of its knowledge, no conflict of interest of the Service Provider, its employees, agents or Subcontractors exists or is likely to arise in the performance of its obligations under this deed.

## **12.2 Mutual Warranties**

The DCJ and the Service Provider warrant to each other that during the Term each will:

- (a) act reasonably and in good faith in relation to matters that arise out of, or in connection with, this deed
- (b) work together in a collaborative manner
- (c) to the extent that it is reasonably possible, perform obligations imposed on them so as to avoid hindering the performance of the other Party
- (d) perform their respective obligations under this deed in compliance with:
  - (i) all Statutory Requirements, and
  - (ii) Government Procurement policies including the Goods and Services Procurement Policy Framework, and
  - (iii) the United Nations Convention on the Rights of the Child and the Charter of Rights for Children and Young People in Out-of-Home-Care.

## **13 Indemnity and Insurance**

### **13.1 Acceptance of risk**

The Service Provider acknowledges that it is common for the child or young person to whom the Service Provider is to provide Services to exhibit challenging behaviours or have other complex support requirements which has the potential of causing workplace health and safety risks. The Service Provider agrees report to DCJ immediately any incident which causes concerns any child or young person may cause harm to his/herself, to other people or property. The Service Provider further agrees to follow any behaviour management strategies developed for any child or young person. The Service Provider must make sure that when carrying out the obligations under this deed the Service Provider exercises the highest level of care and skill so that the child or young person will not cause loss or damage to the property, or personal injury, or death to any person. The Service Provider warrants that it has undertaken an assessment of risk and arranged and maintains, at its own costs, adequate insurance cover to protect its physical assets against loss and/or damage, to protect the Service Provider against legal liability risk for personal injury and/or property damage or other financial loss claims including, without limitation the Service Provider's personnel for personal injury risk arising during duties.

### **13.2 Indemnity**

The Service Providers indemnifies on demand and must keep indemnified on demand DCJ, the Minister for Family and Community Services, the State of New South Wales and any office holder, employee, agent, contractor, consultant, delegate or adviser of, or to, DCJ, the Minister for Family and Community Services and the State of New South Wales (Indemnified Persons), from and against any Loss which any of them pays, suffers, incurs or is liable for in connection with or arising from:

- (a) any unlawful, negligent, reckless or deliberately wrongful act or omission of the Service Provider or its personnel
- (b) any breach by the Service Provider of this deed or any Request for Service
- (c) any infringement of intellectual Property Rights by the Service Provider or any of its Personnel, or
- (d) any death, personal injury, loss or damage suffered by any person enjoying or affected by the performance of a Service causes or contributed to by the Service Provider or its personnel.

The Service Provider's indemnity in this clause 13.2 will be reduced proportionally to the extent that any unlawful, negligent or deliberately wrongful act or omission of the indemnified Persons caused or contributed to the loss.

### **13.3 Insurance**

The Service Provider must obtain on terms that are reasonably satisfactory to DCJ and thereafter maintain the policies of insurance listed in the Standing Offer Agreement Details during the term of the Agreement and during the term of each individual contract created by each Request for Service, which insurance must include but is not limited to the following:

- (a) public liability insurance of minimum 10 million for any single occurrence and unlimited in the aggregate as to the number of occurrences, and
- (b) professional indemnity insurance minimum 10 million for any single occurrence and unlimited in the aggregate as to the number of occurrences, and
- (c) worker's compensation insurance as required by the laws of the State of New South Wales.

### **13.4 Evidence of insurance**

On request by DCJ Representative, the Service Provider must provide certificates of currency proving that the policies of insurance required under this deed have been effected and are current. A certificate of currency provided under this section must be issued by the insurance company providing insurance and must contain all details reasonably requested by DCJ Representative, including a summary of all risks covered and any exclusions.

### **13.5 Service Provider notification**

The Service Provider must notify DCJ within two Business Days of any event which affects or may affect the Service Provider's compliance with this clause 13.2 (Insurance), including any cancellation of a policy or reduction of limit of coverage below that required by this deed.

## **14 Term and termination**

### **14.1 Term**

This deed commences on the date indicated as Commencement Date on the Standing Offer Agreement Details and continues until terminated by either or both parties in accordance with this clause 14.

### **14.2 Termination for convenience**

Either party may terminate this deed in full by giving a written notice to the other party at least 14 days prior to the date of intended termination without the need to give any reasons,

### **14.3 Termination of this deed by DCJ for cause**

The DCJ may terminate this deed in full or, at DCJ option, as it relates to any particular Service immediately by notice to the Service Provider if:

- (a) Breach of deed – the Service Provider breaches this deed and:
  - (i) the breach is not capable of remedy, or
  - (ii) the breach is capable of remedy and the Service Provider fails to remedy the breach within 10 Business Days, or such longer time as DCJ states, of receiving notice from DCJ requiring the breach to be remedied;
- (b) Recurring Breach – the Service Provider:
  - (i) breaches this deed on three (3) separate occasions within a three (3) month period, and
  - (ii) has been issued with a notice from DCJ stating that any further breach of this deed will give DCJ the right under this clause 14.3 to terminate this deed, and
  - (iii) commits a further breach of any provision of this deed.
- (c) Insolvency – the Service Provider becomes Insolvent

- (d) Wrongful assignment or novation – the Service Provider assigns, novates or purports to assign or novate its rights otherwise than as permitted by this deed.

#### **14.4 Contracts created prior to termination of this deed**

On termination of this deed, the Service Provider must fulfil all Requests for Service placed prior to expiry or termination of this deed unless DCJ cancels or terminates the Request for Service at its option without liability.

#### **14.5 Survival**

The termination of this deed by either party does not affect any of their respective rights or remedies accrued before termination. DCJ will not, in any circumstance, be liable for any Consequential Loss suffered by the Service Provider as a result of the termination of this deed. Clauses 7 (Confidentiality), 8 (Privacy), 13 (Insurance), 199 (General) and the Supply Schedule (Schedule 2) survive the termination or expiry of this deed, as do any rights and remedies accrued before termination or expiry.

## **15 Notices**

### **15.1 Form**

Unless stated otherwise in this deed, all notices, certificates, consents, approvals, waivers and other communications in connection with this deed must be in writing.

### **15.2 Time of receipt**

A notice, consent, request or any other communication is deemed to be received:

- (a) if by delivery, when it is delivered
- (b) if posted, the earlier of the date of receipt and three Business Days after posting if within Australia or seven, if posted to or from a place outside Australia
- (c) if a facsimile, the earlier of the time the addressee receives and the next Business Day after the time of dispatch if the sender receives a transmission report which confirms that the facsimile was sent in its entirety to the facsimile number of the recipient, and
- (d) if an email, the earlier of when the email is opened by the recipient and the next Business Day after the time at which it enters the recipient's system (provided that the sender does not receive a delivery failure or out of office message).

## **16 Assignment, Novation**

### **16.1 Assignment or novation by DCJ**

The DCJ may assign any of its rights under this deed, or may delegate or novate its rights and obligations under this deed without the consent of the Service Provider to any department, government agency or any other body created by or under legislation of the State of New South Wales for the purpose of administering the functions or discharging the role of DCJ. The Service Provider must execute all documents necessary to give effect to any novation or assignment permitted under this clause.

### **16.2 Assignment or novation by the Service Provider**

The Service Provider must not assign its rights under this deed or purport to novate its rights and obligations under this deed without the prior written consent of DCJ.

## **17 Disputes**

### **17.1 Dispute Notice**

Either party may give written notice of a Dispute to the other party (Dispute Notice). A party giving a Dispute Notice must provide details of the history and circumstances of the Dispute and give reasons for why the party is disputing the issue. At the expiration of 10 Business Days from the

date of the Dispute Notice, unless the Dispute has otherwise settled, the Dispute may be submitted to the dispute resolution process described in clause 17.2 (Process).

## **17.2 Process**

Any Dispute submitted to the dispute resolution process will be dealt with in the following manner:

- (a) the Dispute will be referred initially to DCJ Representative and the Service Provider Representative. The parties' representatives will attempt to settle the Dispute within 10 Business Days of the referral;
- (b) if DCJ Representative and the Service Provider Representative are unable to resolve the Dispute within those 10 Business Days, or other such period as is agreed, the Dispute will be referred to the parties' respective senior management at a level deemed appropriate by each party given the nature of the Dispute; and
- (c) if the Dispute remains unresolved after a further 10 Business Days of the period referred to in clause 17.2(b), or other such period as is agreed, the parties will refer the Dispute to mediation by a single mediator in accordance with the procedure described below in clause 17.3 (Mediation).

## **17.3 Mediation**

Subject to this clause, if the parties agree to refer a Dispute to mediation the mediation will be administered by the Australian Commercial Disputes Centre (ACDC) and will be conducted in accordance with the ACDC Mediation Guidelines which set out the procedures to be adopted, the process of selection of the mediator and the costs involved and the terms of those Guidelines are incorporated into this deed. In the event that the Service Provider is a small business (being an Australian or New Zealand based firm that has an annual turnover of under \$2 million in the latest financial year), then the parties agree to refer the Dispute to the Small Business Commissioner for mediation.

## **17.4 Right to terminate and interlocutory relief**

This clause does not affect either party's rights to terminate this deed pursuant to clause 14 (Termination) or commence court proceedings seeking interlocutory relief.

## **17.5 Parties to continue to perform**

Notwithstanding the existence of a Dispute, each party must continue to perform its obligations under this deed.

# **18 Work health and safety obligations**

## **18.1 Acknowledgement of control by Service Provider**

- (a) The Service Provider acknowledges that as person conducting a business or undertaking it has, and must maintain, the sole management and control of:
  - (i) the provision of goods and services under the Agreement
  - (ii) the manner in which work under the Agreement is carried out and completed, and
  - (iii) all matters arising from or connected with the carrying out and completion of the work under the Agreement that give rise or may give rise to any risk to health or safety.

## **18.2 Health and safety compliance**

- (a) The Service Provider:
  - (i) must comply with all relevant Safety Legislation and Safety Requirements



- (ii) warrants that it is familiar with and has the capability, resources and competency to comply with all relevant Safety Legislation and Safety Requirements
- (iii) must perform all relevant functions and fulfil all relevant duties under all relevant Safety Legislation of an employer or a person conducting a business or undertaking or otherwise applicable to the role of the Service Provider, and
- (i) must (and must ensure that all subcontractors engaged to carry out work on its behalf) at all times identify and exercise all necessary precautions for the health and safety of all persons including its employees, all subcontractor's employees, DCJ employees and members of the public who may be affected by any work under the Agreement.

### **18.3 Obligation to comply with a WHS Management System**

- (a) The Service Provider must:
  - (i) submit a WHS Management System and comply with, and ensure that all persons for whom it is responsible or over whom it is capable of exercising control or influence while executing the work under the Agreement, comply with the requirements of the WHS Management System, Safety Legislation and Safety Requirements
  - (ii) provide details of the WHS Management System to DCJ in accordance with any reasonable request by or on behalf of DCJ
  - (iii) regularly review and where necessary, update the WHS Management System and notify DCJ of any updates as soon as reasonably practicable
  - (iv) provide evidence of implementation of adequate risk control measures to DCJ in accordance with any reasonable request by or on behalf of DCJ
  - (v) provide evidence which reasonably satisfies DCJ that the Service Provider has complied with the WHS Management System, Safety Legislation and Safety Requirements, or otherwise that the Service Provider is taking reasonable steps to rectify any non-compliance, in accordance with any reasonable request by or on behalf of DCJ
  - (vi) provide evidence which reasonably satisfies DCJ that all persons for whom the Service Provider is responsible or over whom it is capable of exercising control or influence while executing work under the Agreement, have complied with the requirements of the WHS Management System, Safety Legislation and Safety Requirements, or otherwise that the Service Provider is taking reasonable steps to rectify any non-compliance, in accordance with any reasonable request by or on behalf of DCJ, and
  - (vii) provide evidence which reasonably satisfies DCJ that the Service Provider and its employees and subcontractors hold the registrations, licenses, permits or certificates of competency that they are required by law to hold as a condition for operating equipment or performing the work under the Agreement.

### **18.4 Appointment of the Service Provider as Principal Contractor**

- (a) Insofar as Safety Legislation imposes principal contractor obligations on DCJ in relation to any work under the Agreement (including installation and maintenance work), DCJ:

- (i) appoints the Service Provider, and the Service Provider accepts its appointment, as DCJ contractor for the work under the Agreement, and
  - (ii) authorises the Service Provider to manage and control the workplace in which Services are performed to the extent necessary to enable the Service Provider to discharge the responsibilities and duties imposed on a principal contractor under the relevant Safety Legislation.
- (b) The Service Provider acknowledges that it has the responsibility and authority for the management and control of the matters referred to in clause 17.1 and the Service Provider's responsibility and authority remains unaffected despite any approval, authorisation, direction, instruction, order, permission, request or requirement of DCJ or the operation of any other clause of the Agreement.

### **18.5 Warranties**

- (a) The Service Provider warrants that the Service Provider and its employees and subcontractors are competent to provide the services under the Agreement.
- (b) The Service Provider warrants that the Service Provider and its employees and subcontractors are fully trained, qualified and competent in, and have the resources to comply with, all Safety Legislation and Safety Requirements.
- (c) The Service Provider warrants that any building products supplied or installed in connection with work under the Agreement:
  - (i) are certified in accordance with any applicable Australian third party certification scheme, and
  - (ii) are not non-conforming building products.
- (d) If reasonably requested by DCJ, the Service Provider must provide evidence which demonstrates compliance with clause 18.5(c).
- (e) For the purpose of clause 18.5(c)(ii), a "non-conforming building product" is any material or other thing, that, for its intended use, is not, or will not be, safe; does not, or will not, comply with the relevant Safety Legislation and Safety Requirements; or does not perform, or is not capable of performing, for the intended use to the standard it is represented to perform by or for the designer, manufacturer, importer, supplier or installer of the product.

### **18.6 Reporting obligations**

- (a) In performing work under the Agreement, the Service Provider must:
  - (i) promptly notify DCJ of any Notifiable Incident (whether or not there is an injury), accident, injury, property or environmental damage which occurs during the carrying out of, or is associated with, any part of the work under the Agreement. The Service Provider must, as soon as reasonably possible, provide a written report to DCJ containing complete details of the incident, including the result of any investigation into its cause and any recommendation or strategy for prevention of a recurrence
  - (ii) promptly notify DCJ of any direction or notice of any authority, having jurisdiction in relation to health and safety, provided to the Service Provider or issued in relation to the work under the Agreement. The Service Provider must, within twenty-four (24) hours of receipt, provide a copy to DCJ

- (iii) immediately advise DCJ in writing of any act, fact or circumstance associated with the activities of the Service Provider or any other person relevant to the ability of the Service Provider to carry out any part of the work under the Agreement in a manner that is safe and without risk to health and safety
- (iv) provide DCJ with reasonable assistance (including access to relevant documents and the Service Provider's employees) in investigating any such incident if requested to do so by DCJ, and
- (v) maintain records and make reports concerning the health, safety and welfare of people, and damage to property, as DCJ reasonably requires.

#### **18.7 Access, assistance and cooperation for audit compliance**

- (a) The Service Provider must reasonably:
  - (i) provide DCJ with access to relevant documents
  - (ii) provide DCJ with assistance, and
  - (iii) co-operate with DCJ,

to enable DCJ to audit compliance by the Service Provider and DCJ with Safety Legislation.

#### **18.8 Consultation, co-operation and co-ordination**

- (a) In performing work under the Agreement, the Service Provider must, so far as is reasonably practicable, consult, co-operate and co-ordinate activities with DCJ, any suppliers or Service Providers or other persons who have a work health and safety duty in relation to the same matter as the Service Provider, in relation to or associated with the work under the Agreement:
  - (i) to achieve effective co-ordination of activities to ensure optimal health and safety risk management, and
  - (ii) to enable DCJ and the Service Provider and other relevant parties to comply with their respective obligations under all relevant Safety Legislation.
- (b) The Service Provider's obligation in clause 18.8(a) includes providing information to DCJ when reasonably requested.
- (c) The Service Provider must provide all reasonable assistance to DCJ to enable DCJ to comply with its obligations under Safety Legislation.

#### **18.9 Indemnity**

- (a) To the extent permitted by law, the Service Provider releases and indemnifies DCJ from and against any damage, expense, loss, cost, liability or claim by or against DCJ arising out of or in connection with any breach by the Service Provider of any requirement set out in clauses 18.1-18.8 of this Agreement, of Safety Legislation or Safety Requirements, including all costs actually payable by DCJ to its legal representatives (whether under a costs agreement or otherwise).
- (b) This indemnity extends to any cost incurred by DCJ in taking steps to ensure compliance by it or the Service Provider or any subcontractor with Safety Legislation or Safety Requirements, if those or equivalent steps should have been

taken by the Service Provider or any subcontractor in compliance with Safety Legislation or Safety Requirements.

## **19 General**

### **19.1 Discretion in exercising rights**

A party may exercise a right or remedy or give or refuse its consent in any way it considers appropriate (including by imposing conditions), unless this deed expressly states otherwise.

### **19.2 Partial exercising of rights**

If a party does not exercise a right or remedy fully or at a given time, the party may still exercise it later.

### **19.3 No liability for loss**

A party is not liable for loss caused by the exercise or attempted exercise of, failure to exercise, or delay in exercising a right or remedy under this deed.

### **19.4 Remedies cumulative**

The rights and remedies provided in this deed or a Request for Service are in addition to other rights and remedies given by law independently of this deed.

### **19.5 Variation and waiver**

A provision of this deed or a right created under it, may not be waived or varied except in writing, signed by the party or parties to be bound.

### **19.6 Indemnities**

The indemnities in this deed are continuing obligations, independent from the other obligations of the parties under this deed and continue after this deed ends, it is not necessary for a party to incur expense or make payment before enforcing a right of indemnity under this deed.

### **19.7 Construction**

No rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of, or seeks to rely on, this deed or any part of it.

### **19.8 Costs**

The parties agree to pay their own legal and other costs and expenses in connection with the preparation, execution and completion of this deed and other related documentation except for stamp duty.

### **19.9 Counterparts**

This deed may be executed in counterparts. All counterparts when taken together are to be taken to constitute one instrument.

### **19.10 Governing law and jurisdiction**

This deed is governed by the law in force in New South Wales. Each party submits to the non-exclusive jurisdiction of the courts of New South Wales.

### **19.11 Severability**

If any part or provision of this deed is judged invalid or unenforceable in a jurisdiction it is severed for that jurisdiction and the remainder of this deed will continue to operate.

### **19.12 Further assurance**

Each party agrees to do anything the other party asks (such as obtaining consents, signing and producing documents and getting documents completed and signed):

- (a) to bind the party and any other person intended to be bound under this deed; and
- (b) to give effect to the intentions of the parties and the transactions contemplated by this deed, including execution and delivery of documents and other instruments.

**19.13 Entire agreement**

This deed constitutes the entire agreement of the parties about its subject matter and supersedes any previous understandings or agreements on that subject matter.

## **Schedule 1 DICTIONARY**

**Accreditation** means accreditation as a designated agency by the Children's Guardian under section 139 of the *Children and Young Person's (Care and Protection) Act 1998* and Division 4 of Part 6 of the *Children and Young Persons (Care and Protection) Regulation 2012*.

**Authorisation** means authorisation as an authorised carer under clause 31B of the *Children and Young Persons (Care and Protection) Regulation 2012*.

**Business Days** means a day other than a Saturday, Sunday, public holiday in New South Wales or 24 or 31 December.

**Care Act** means the Children and Young person (Care and Protection) Act 1998

**Change** is defined in clause of the Standing Offer Agreement;

**Change of Control** occurs, in respect of an entity when:

- (a) a person who did not have Control of the entity at the Commencement Date acquires Control of the entity; or
- (b) a person who did have Control of the entity at the Commencement Date ceases to have Control of the entity.

**Change Notice** means a notice executed by the parties setting out an agreed Change and the variations to this deed relating to that Change.

**Change Proposal** means a proposal issued by the Service Provider detailing the variations which would be applicable to implement a Change.

**Contract Price** means the charges set out in a Supply Schedule for the Services.

**Claim** means any allegation, debt, cause of action, liability, claim, proceeding, suit or demand of any nature howsoever arising and whether present or future, fixed or unascertained, actual or contingent whether at law, in equity, under statute or otherwise.

**DCJ Districts** means the DCJ District offices and other business units within DCJ who are accredited from time to time as designated agencies by the Children's Guardian. These accredited parts of DCJ are listed on the Children's Guardian's website under the name Community Services.

**DCJ Representative** means the person identified in the Standing Offer Agreement Details as DCJ Representative, as varied by notice to the Service Provider from time to time.

**Confidential Information** means information that:

- a. is by its nature confidential;
- b. is designated by DCJ as being confidential; or
- c. the Service Provider knows or ought to know is confidential, but does not include information that:
- d. is or becomes public knowledge, other than by breach of this Deed or a Program Level Agreement;
- e. is in the possession of the Service Provider without restriction in relation to disclosure before the date or receipt from DCJ; or
- f. has been independently developed or acquired by the Service Provider.

**Consequential Loss** means any loss recoverable at law (other than loss arising in the usual course of things) which is consequential upon other loss, including:

- a. loss of income or revenue;
- b. a loss of opportunity or goodwill;
- c. a loss of profits;
- d. a loss of anticipated savings or business; and

e. loss of value of any equipment,  
and any costs or expenses in connection with the foregoing.

**Control** of an entity includes the direct or indirect power to:

- (c) direct the management or policies of the entity; or
- (d) control the membership of the board of directors,
- (e) whether or not the power has statutory, legal or equitable force or is based on statutory, legal or equitable rights, and whether or not it arises by means of trusts, agreements, arrangements, understandings, practices, the ownership of any interest in shares or stock of that corporation or otherwise.

**Controller** has the meaning it has in the Corporations Act.

**Corporations Act** means the *Corporations Act 2001* (Cth).

**Child or young person** means a child or a young person who is:

- (a) in the parental responsibility of the Minister for Family and Community Services either solely or jointly with another person;
- (b) in the care and responsibility of the Secretary of the Department of Family and Community Services pursuant to section 44 Care Act;
- (c) in out-of-home-care as defined under section 135 Care Act; and
- (d) such other child or young person, which DCJ may from time to time in its discretion, specify in writing.

**Designated agency** has the meaning it has under the *Children and Young Persons (Care and Protection) Act 1998*.

**Dispute** includes any dispute, controversy, difference or claim arising out of or in connection with the Standing Offer Agreement deed or the subject matter of the Standing Offer Agreement deed or, in relation to a child or young person, a Request for Service, including any question concerning its formation, validity, interpretation, performance, breach and termination.

**Government Agency** means any governmental, semi-governmental, administrative, fiscal, judicial or quasi-judicial body, department, commission, authority, tribunal, agency or entity.

**GST** means the tax imposed by the GST Act and the related imposition Acts of the Commonwealth.

**GST Act** means the A New Tax System (Goods and Services Tax) Act 1999, as amended from time to time.

**GST Exclusive Market Value** has the meaning given to it in the GST Act.

A person is **Insolvent** if:

- (a) it is (or states that it is) an insolvent under administration or insolvent (each as defined in the Corporations Act); or
- (b) it has had a Controller appointed or is in liquidation, in provisional liquidation, under administration or wound up or has had a Receiver appointed to any part of its property; or
- (c) it is subject to any arrangement, assignment, moratorium or composition, protected from creditors under any statute or dissolved (in each case, other than to carry out a reconstruction or amalgamation while solvent on terms approved by the other parties to this deed); or
- (d) an application or order has been made (and in the case of an application, it is not stayed, withdrawn or dismissed within 30 days), resolution passed, proposal put forward, or any other action taken, in each case in connection with that person, which is preparatory to or could result in any of (a), (a) or (b) above; or
- (e) it is taken (under section 459F(1) of the Corporations Act) to have failed to comply with a statutory demand; or

- (f) it is the subject of an event described in section 459C(2)(b) or section 585 of the Corporations Act (or it makes a statement from which another party to this deed reasonably deduces it is so subject); or
- (g) it is otherwise unable to pay its debts when they fall due; or
- (h) something having a substantially similar effect to (a) to (g) happens in connection with that person under the law of any jurisdiction.

**Input Tax Credit** has the meaning it has in the GST Act.

**Invoice Timing** means the timing for issue of invoices set out in a Supply Schedule.

**Notifiable Incident** means any event which is required to be notified to any relevant authority pursuant to the relevant Safety Legislation.

**Ordering Process** means the process for ordering Services set out in a Supply Schedule.

**Permitted Circumstances** means, in respect of a Recipient, a disclosure by that Recipient of the Discloser's Confidential Information to:

- (a) the Recipient's Representatives who require the Confidential information for the purposes of this deed; or
- (b) to enable the Recipient to obtain professional advice in relation to this deed; or
- (c) with the consent of the Discloser; or
- (d) if the Recipient is required to do so by law or by a lawful requirement of any government or governmental body, authority or agency having authority over the Recipient or by a stock exchange; or
- (e) if the Recipient is required to do so in connection with legal proceedings relating to this deed or other deed between the parties.

**Principal Officer** has the meaning it has under the *Children and Young Persons (Care and Protection) Act 1998*.

**Prohibited Person** means a person prohibited from seeking, obtaining, undertaking or remaining in child related employment under either the *Commission for Children and Young People Act 1998* or the *Child Protection (Offenders Registration) Act 2000*.

**Receiver** includes a receiver or receiver and manager.

**Recipient** means the party receiving Confidential Information.

**Records** mean records and documentation relating to this deed and each Request for Service (including Services, and/or Contract Price).

**Related Bodies Corporate** has the meaning it has in the Corporations Act.

**Reportable Allegation** has the meaning it has in Part 3A of the *Ombudsman Act 1974*

**Reportable Conduct** has the meaning it has in Part 3A of the *Ombudsman Act 1974* and includes:

- (a) any sexual offence, or sexual misconduct, committed against, with or in the presence of a child (including a child pornography offence or an offence involving child abuse material (within the meaning of Division 15A of Part 3 of the Crimes Act 1900)), or
- (b) any assault, ill-treatment or neglect of a child, or
- (c) any behaviour that causes psychological harm to a child, or
- (d) any offence under section 43B or 316A of the Crimes Act 1900,

**Representative** of a party includes an employee, agent, officer, director, auditor, advisor, partner, consultant, joint venturer, contractor or sub-contractor of that party.

**Request for Service** means a valid purchase order issued to a Service Provider in accordance with the Standing Offer Agreement deed in the form annexed as **Error! Reference source not found.**



**Safety Legislation** means any:

- (a) legislation applicable to work health and safety, environment protection, dangerous goods and electricity safety;
- (b) regulations made under that legislation; and
- (c) directions on safety or notices issued by any relevant authority or any code of practice or compliance code appropriate or relevant to the Services,

and any amendment or replacement of the above.

**Safety Requirements** means any direction, instruction, request or requirement relevant or necessary for compliance by the Service Provider with Safety Legislation, including any such matter of which the Service Provider has been informed by the Principal.

**Services** means all services set out in a Supply Schedule required to be provided by the Service Provider under a Request for Service.

**Standing Offer Agreement Details** means the Standing Offer Agreement Details set out at the front of this deed.

**Subcontractor** means subcontractors of the Service Provider.

**Service Provider's Personnel** means employees, partners, agents and sub-contractors (including employees of sub-contractors) of the Service Provider.

**Service Provider's Representative** mean the person identified in the Standing Offer Agreement Details as the Service Provider Representative, as varied by notice to DCJ from time to time.

**Supply Schedule** means the Schedule 2 to the Standing Offer Agreement detailing the Services that the Service Provider will, on receipt of a Request for Service, supply to a child or young person identified by DCJ.

**Tax Invoice** has the meaning given to it in the GST Act.

**Taxes** means taxes, levies, imposts, charges and duties (including, stamp and transaction duties) imposed by any Government Agency, together with any related interest, penalties, fines and expenses in connection with them except if imposed on, or calculated having regard to, the overall net income of DCJ, but excluding GST.

**Term** means the period commencing from the Commencement Date and ending on the date that the Standing Offer Agreement deed is terminated.

**WHS Management System** means a documented system that:

- (a) describes how work is to be carried out;
- (b) identifies the work activities assessed as having safety risks or hazards;
- (c) identifies the safety risks and hazards; and
- (d) describes the control measures that will be applied to the work activities in accordance with the risk management requirements of Safety Legislation,

and includes a description of the equipment used in the work, the standards or codes to be complied with, the qualifications of the personnel doing the work (including competency certificates and licenses of the personnel), the training required to do the work and confirmation that the training has been provided in compliance with Safety Legislation, applicable codes of practice and other guidance material issued by an authority that enforces Safety Legislation.

#### **REFERENCES TO CERTAIN GENERAL TERMS**

Unless the contrary intention appears, a reference in the Standing Offer Agreement deed and a Request for Service to:

**(variation or replacement)** a document (including the Standing Offer Agreement deed and a Request for Service) includes any variation or replacement of it;

**(clauses, annexures and schedules)** a clause, Schedule, Annexure, Attachment or Exhibit is a reference to a clause in, or a Schedule, Annexure, Attachment or Exhibit to, the Standing Offer Agreement deed or, in relation to a Request for Service, that Request for Service;

**(law)** law includes common law, principles of equity, and laws made by parliament (and laws made by parliament include State, Territory and Commonwealth laws and regulations and other instruments under them, and consolidations, amendments, re-enactments or replacements of any of them);

**(dollars)** an amount of money is a reference to the lawful currency of Australia;

**(calculation of time)** a period of time that dates from a given day or tie day of an act or event is to be calculated exclusive of that day;

**(next day)** if an act under the Standing Offer Agreement deed or a Request for Service to be done by a party on or by a given day is done after 5.30pm on that day, it is taken to be done on the next day; and

**(time of day)** time is a reference to Sydney time.

**(Headings)** Headings are included for convenience only and are not to affect the interpretation of the Standing Offer Agreement deed or a Request for Service.

**Schedule 2  
SUPPLY SCHEDULE**

**See attached excel template**

**Schedule 2  
SUPPLY SCHEDULE**



**Communities  
& Justice**

**SCHEDULE 2 – SUPPLY SCHEDULE**

**PART 1 – SERVICE PROVIDER DETAILS**

<b>Organisation name (trading name):</b>	
<b>Name of Organisation’s Representatives:</b>	
<b>Position:</b>	
<b>Address:</b>	
<b>Phone:</b>	
<b>Facsimile:</b>	
<b>Email:</b>	

**Schedule 3  
REQUEST FOR SERVICE**