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**Deed Variation History:** A complete variation history, which reflects all general deed variations made to date, is provided at the end of this document. Minor formatting changes for accessibility have also been applied to this document.

## **ParentsNext Deed 2018-2021**

**Effective 1 January 2020**

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# Reader's Guide to this Deed

This Deed is comprised of 'Parts' which are divided into 'Chapters', which are subdivided into 'Sections'.

There are three Parts:

PART A – GENERAL TERMS AND CONDITIONS

PART B – PARENTSNEXT SERVICES

PART C – INTENSIVE STREAM SERVICES

There are four Chapters and two Annexures in Part A - GENERAL TERMS AND CONDITIONS:

- A1. Introduction
- A2. Basic Conditions
- A3. Information Management
- A4. Deed Administration

Annexure A1 – Definitions

Annexure A2 – Joint Charter of Deed Management

For all Providers (i.e. who are contracted to provide Targeted Stream Services and/or Intensive Stream Services), there are four Chapters and two Annexures in Part B – PARENTSNEXT SERVICES:

- B1. General ParentsNext Services
- B2. Specific ParentsNext Services
- B3. Mutual Obligation Requirements and Activities
- B4. Payments

Annexure B1 – Service Fee Payments

Annexure B2 – Service Guarantees

For Providers who are contracted to provide Intensive Stream Services, there is one Chapter and one Annexure in Part C – INTENSIVE STREAM SERVICES

- C1. Specific requirements relating to Intensive Stream Participants

Annexure C1 – Outcomes, Outcome Payments and Participation Fund credits

There is one Schedule to this Deed, which contains details that are particular to individual ParentsNext Providers.

There are various information boxes and notes at various points in this Deed. Except where expressly stated to the contrary, none of these form part of this Deed for legal purposes. They are intended to make this Deed easier to understand and read.

The Provider must provide Services in accordance with Part A, Part B and the Schedule, and Part C depending on the specific Services it is contracted to provide (see the Particulars and Schedule 1).

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# PART A - GENERAL TERMS AND CONDITIONS

## CHAPTER A1 – INTRODUCTION

### Section A1.1 – Definitions and interpretation

#### 1. Definitions and interpretation

- 1.1 In this Deed, unless the contrary intention appears, all capitalised terms have the meaning given to them in the definitions in Annexure A1. All other words have their natural and ordinary meaning.
- 1.2 Unless the contrary intention appears:
- (a) words in the singular include the plural and vice versa;
  - (b) a reference to a person includes a partnership and a body whether corporate or otherwise;
  - (c) a reference to an entity includes an association of legal persons, however constituted, governed by deed, an incorporated body, an unincorporated association, a partnership and/or a trust;
  - (d) a reference to any legislation or legislative provision is to that legislation or legislative provision as in force from time to time;
  - (e) the chapter headings, section headings, clause headings and subheadings within clauses, notes and information boxes are inserted for convenience only, and have no effect in limiting or extending the language of provisions of this Deed;
  - (f) any uncertainty or ambiguity in the meaning of a provision of this Deed is not to be interpreted against a Party just because that Party prepared the provision;
  - (g) a reference to an internet site or webpage includes those sites or pages as amended from time to time;
  - (h) a reference to a Guideline, form or other document is to that Guideline, form or other document as revised or reissued from time to time; and
  - (i) where a word or phrase is given a defined meaning, any other part of speech or other grammatical form of that word or phrase has a corresponding meaning.
- 1.3 The Provider agrees that:
- (a) Conditions of Offer form part of this Deed;
  - (b) Guidelines form part of this Deed;
  - (c) it must perform all obligations in this Deed in accordance with:
    - (i) any direction, advice or Notice given by the Department; and
    - (ii) the Guidelines;even if a particular clause does not expressly refer to any direction, advice, Notice or Guidelines;
  - (d) Guidelines may be varied by the Department;
  - (e) any action, direction, advice, Notice, determination or right of the Department may be taken, given, made or exercised from time to time and at the Department's absolute discretion, to the extent permitted by law; and

(f) any approval or consent by the Department may be refused, given subject to conditions or later revoked by the Department.

1.4 Unless the contrary intention appears, if any conflict or inconsistency arises between any part of:

- (a) any action, direction, advice, Notice, determination or right that is taken, given, made or exercised by the Department;
  - (b) this Deed, including any Condition of Offer, Annexure A1 [Definitions], Annexure B1 [Service Fee Payments] and Annexure C1 [Outcomes, Outcome Payments and Participation Fund credits];
  - (c) the Schedule;
  - (d) the Particulars;
  - (e) the Guidelines; or
  - (f) Annexure A2 [Joint Charter of Deed Management] and Annexure B2 [Service Guarantee],
- then the material mentioned in any one of paragraphs (a) to (f) above has precedence over material mentioned in a subsequent paragraph, to the extent of any conflict or inconsistency.

## **CHAPTER A2 – BASIC CONDITIONS**

### **Section A2.1 – Deed length**

#### **2. Term of this Deed**

- 2.1 This Deed takes effect from the Deed Commencement Date and ends on the Completion Date.
- 2.2 The Department may extend the Term of this Deed for one Extended Service Period of three years by giving Notice to the Provider not less than 20 Business Days prior to the end of the Service Period.

#### **3. Survival**

- 3.1 The termination or expiry of this Deed for any reason does not extinguish or otherwise affect the operation of:
  - (a) clauses 6.2, 7, 11.1, 11.3, 16, 18, 19, 21, 23, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 45 or 55 of this Deed; or
  - (b) any provisions, other than those aforementioned, that:
    - (i) are expressly specified as surviving; or
    - (ii) by implication from their nature are intended to survive.
- 3.2 Clause 34 of this Deed survives for seven years from the expiry or earlier termination of this Deed.

### **Section A2.2 – Some basic rules about Services**

#### **4. General Requirements**

- 4.1 The Provider must carry out the Services:
  - (a) in accordance with:
    - (i) this Deed, including any Guidelines; and
    - (ii) any representation or undertaking made by the Provider in its response to the request for tender for this Deed, unless otherwise agreed with the Department;



- (b) in a manner which meets the Objectives of ParentsNext; and
  - (c) so as to achieve optimum performance when measured against the KPIs.
- 4.2 The Objectives of ParentsNext are to assist eligible parents of young children to plan and prepare for Employment by the time their children reach school age, and, in particular, to:
- (a) target early intervention assistance to parents at risk of long-term welfare dependency;
  - (b) help parents identify and reach their Education and Employment goals through participation in activities; and
  - (c) connect parents to local services that can help them prepare for Employment.
- 4.3 The Provider must immediately Notify the Department if it becomes aware that it is unable to satisfy or has otherwise failed to comply with any of the requirements in this Deed.
- 4.4 The Provider must take all reasonable steps to minimise delay or the negative impact of any matter(s) that affects the Provider's ability to meet its obligations under this Deed.

## **5. Location and timing of the Services**

- 5.1 The Provider must deliver the Services from the Service Start Date until the end of the Service Period and any Extended Service Period.
- 5.2 Unless otherwise directed by the Department and subject to this Deed, the Provider must provide Services in accordance with, and only as specified in, item 6 of Schedule 1.
- Note: Schedule 1 specifies whether Services will be provided at Sites on a Full-time, Part-time or Outreach basis.
- 5.3 The Provider must ensure that:
- (a) any location from which Services are provided:
    - (i) has a welcoming environment that caters to the needs of parents and their Children, providing a safe space for Children during Contacts at that location;
    - (ii) is only co-located with another employment service (such as jobactive or NEST) if:
      - (A) there is a clear physical delineation between the location from which Services are provided and the employment service; and
      - (B) co-locating the Services with an employment service does not compromise the Provider's ability to comply with clause 5.3(a)(i);
    - (iii) accessible to people with a disability; and
    - (iv) presented in a manner that upholds and maintains the good reputation of the Services, as determined by the Department; and
  - (b) it takes all reasonable steps to avoid acts or omissions which the Provider could reasonably foresee would be likely to cause injury to Participants or any other persons at the locations referred to in clause 5.3(a).
- 5.4 The Provider must ensure that its Sites are open for the provision of the Services:
- (a) on the Business Days and any other days specified in Schedule 1 and the Provider's tender response to the request for tender for this Deed; and
  - (b) at the times specified in items 6.5, 6.6 and 6.7 of Schedule 1, unless otherwise Notified by the Department.

## **6. Provider's conduct**

- 6.1 The Provider must, at all times, act in good faith towards the Department and Participants, and in a manner that maintains the good reputation of the Services.
- 6.2 The Provider must:
- (a) not engage in, and must ensure that its Personnel, Subcontractors, Third Party IT Vendors and agents do not engage in, any practice that manipulates or impacts, as relevant, any aspect of the Services including any:
    - (i) Record, including any Documentary Evidence;
    - (ii) Outcome (where the Provider provides Intensive Stream Services);
    - (iii) Payment or Payment-related process;
    - (iv) Participant or Employer; or
    - (v) monitoring of the Services by the Department,with the effect of improperly, as determined by the Department, maximising payments to, or otherwise obtaining a benefit for, the Provider or any other person or persons; and
  - (b) without limiting the Department's rights under this Deed or the law, where an improper practice is identified by the Provider, immediately:
    - (i) take all action necessary to appropriately remedy the practice; and
    - (ii) Notify the Department of the practice identified and the remedial action taken and provide all information in relation to the situation as required by the Department.

- 6.3 The Provider must advise its officers and employees that:
- (a) they are Commonwealth public officials for the purposes of section 142.2 of the *Criminal Code Act 1995* (Cth);
  - (b) acting with the intention of dishonestly obtaining a benefit for any person is punishable by penalties including imprisonment; and
  - (c) disclosures of "disclosable conduct" under the *Public Interest Disclosure Act 2013* (Cth) can be made directly to their supervisors within the Provider, or to an Authorised Officer of the Department as specified on [the Department's website at \(https://www.employment.gov.au/public-interest-disclosure-act-2013\)](https://www.employment.gov.au/public-interest-disclosure-act-2013) and where a disclosure of "disclosable conduct" is made to a supervisor within the Provider, the supervisor is required under section 60A of the *Public Interest Disclosure Act 2013* (Cth) to pass information about the conduct to an Authorised Officer of the Department.

Note: For the avoidance of doubt, no right or obligation arising from this Deed is to be read or understood as limiting the Provider's right to enter into public debate regarding policies of the Australian Government, its agencies, employees, servants or agents.

## **7. Information provided to the Department**

- 7.1 The Provider must ensure that:
- (a) all information it provides to the Department, in any form and by any means is true, accurate and complete at the time of its provision to the Department;
  - (b) it diligently, and in accordance with any Guidelines, takes all necessary steps to verify the truth, completeness and accuracy of any information referred to in clause 7.1(a); and
  - (c) any data entered into the Department's IT Systems is consistent with any associated Documentary Evidence held by the Provider.

- 7.2 Subject to clause 16.5, the Provider must submit Documentary Evidence to the Department within five Business Days of any request by the Department to do so.

## **8. Checks and reasonable care**

### **Personnel and Supervisors**

- 8.1 Before arranging for any Personnel or a potential Supervisor to be involved in the Services, including any Activity (other than a Launch into Work Placement or a RET Activity), the Provider must arrange and pay for all checks, and comply with any other conditions in relation to the person's involvement, as specified in:
- (a) any relevant legislation, and in particular, any Working with Children Laws, in effect in the jurisdiction(s) in which the Services are conducted; and
  - (b) any Guidelines.
- 8.2 The Provider must not allow any Personnel or a potential Supervisor to participate in the Services, including any Activity (other than a Launch into Work Placement or a RET Activity):
- (a) if any relevant legislation or any Guidelines provide or mean that the person must not be allowed to be so involved; or
  - (b) if:
    - (i) a relevant check shows that they have been convicted of a crime and a reasonable person would consider that the conviction means that the person would pose a risk to other persons involved in the Services; or
    - (ii) there is otherwise a reasonably foreseeable risk that the person may cause loss or harm to any other person,unless the Provider has put in place reasonable measures to remove or substantially reduce that risk.

### **Participants**

- 8.3 If an Activity or Employment involves close proximity with people who are elderly, disabled or otherwise vulnerable or Children (excluding other Participants), before arranging for a Participant to be involved in the Activity or placed in the Employment, the Provider must, unless Notified otherwise, arrange and pay for all checks in relation to a Participant's involvement or placement as specified in:
- (a) any relevant legislation, and in particular, any Working with Children Laws, in effect in the jurisdiction(s) in which the Activity is conducted or the Employment exists; and
  - (b) any Guidelines.
- 8.4 The Provider must not allow a Participant to be involved in an Activity or place a Participant into Employment:
- (a) if any relevant legislation or Guidelines provide or mean that the Participant must not be allowed to be so involved or placed; or
  - (b) if:
    - (i) a relevant check shows that they have been convicted of a crime and a reasonable person would consider that the conviction means that the person would pose a risk to other persons involved in the Activity or Employment; or

- (ii) there is otherwise a reasonably foreseeable risk that the person may cause loss or harm to other persons involved in the Activity or Employment,  
unless the Provider has put in place reasonable measures to remove or substantially reduce that risk.

Note: Where the Provider places a Participant into Employment, 'reasonable measures' may include, if relevant and consistent with any requirements under the law, advising the Employer of any information that may be relevant to assisting the Employer to mitigate relevant risks.

## **9. Provider's responsibility**

- 9.1 The Provider is fully responsible for the performance of the Services, for ensuring compliance with the requirements of this Deed, and for all costs of meeting the Provider's obligations under this Deed, notwithstanding any other matter or arrangement, including any Subcontracting arrangements.

## **10. Joint Charter of Deed Management**

- 10.1 Subject to clause 10.2, the Department and the Provider agree to conduct themselves in accordance with the Joint Charter of Deed Management.
- 10.2 Clause 10.1 does not in any way limit the right of either Party to take action or exercise rights that would, if not for the Joint Charter of Deed Management, be available to it under this Deed.

## **11. Communication and directions**

- 11.1 The Provider must comply with any direction given to the Provider by the Department relating to this Deed and/or the Services, including, without limiting the foregoing, directions relating to:
  - (a) action that must be taken by the Provider where the Department determines that the Provider has breached this Deed;
  - (b) work, health and safety matters;
  - (c) transfer of Participants to another employment services provider;
  - (d) Customer Complaints;
  - (e) communicating with, and providing information to, the Department, or any other person nominated by the Department;
  - (f) assisting the Department with its Program Assurance Activities;
  - (g) using the Department's premises or facilities;
  - (h) training that Personnel must undergo;
  - (i) an Activity, a proposed Activity or a type of Activity;
  - (j) any Activity Host Organisation Agreement or Subcontract with an Activity Host Organisation;
  - (k) any Launch into Work Placement or referral of a Participant to a Launch into Work Placement; and/or
  - (l) providing to the Department:
    - (i) financial statements and financial guarantees;
    - (ii) Reports;
    - (iii) Records;
    - (iv) Documentary Evidence;

- (v) proof of insurance;
- (vi) a copy of the Provider's Constitution;
- (vii) a credentials information form that authorises the Department to undertake a credit check of a particular individual involved in the management of the Provider;
- (viii) information relating to the Control of the Provider or of any Material Subcontractor; and/or
- (ix) a copy of the Provider's Aboriginal and Torres Strait Islander employment strategy.

Note: 'other person' referred to in clause 11.1(e) includes, for example, an auditor appointed by the Department.

- 11.2 Any direction given by the Department to the Provider does not in any way limit the Department's rights under this Deed or the law.
- 11.3 The Provider must immediately Notify the Department of any matter or incident relating to the Services that could be damaging to the reputation of the Provider or the Department should it become publicly known.
- 11.4 The Department and the Provider must respectively nominate an Account Manager and a Contact Person for the Term of this Deed to handle the day to day management of, and communication under, this Deed.
- 11.5 The Provider must ensure that it has, and Notifies to the Department, a valid electronic mail address for receipt of all communications with the Department.
- 11.6 The Provider must provide all reasonable assistance to the Commonwealth in relation to the Social Security Appeals Process including ensuring the availability of its Personnel, agents and Subcontractors to appear at hearings (including appeals to any court or tribunal) and to provide witness or other statements as required by the Department.
- 11.7 The Provider must notify Services Australia of any change in the circumstances of a Participant:
  - (a) as required in relation to any claim for a Pay Slip Verified Outcome Payment under any Guidelines (where the Provider provides Intensive Stream Services); and
  - (b) that impacts on their Income Support Payments,
 and do so within five Business Days of becoming aware of the change in circumstances.
- 11.8 The Provider must respond within five Business Days to any request for information by Services Australia or the Department about any change in circumstances referred to in clause 11.7.

## **12. Business level expectations**

- 12.1 The Department provides no guarantee of:
  - (a) the volume or type of business the Provider will receive, including the number of Referrals;
  - (b) the numbers of Participants for any Services under this Deed;
  - (c) the numbers of Participants for any Location in relation to any Services under this Deed; or
  - (d) the accuracy of market and other information provided in the request for tender for this Deed.

## **13. Gap filling**

- 13.1 For the purposes of filling gaps in ParentsNext services, the Department and the Provider may agree to provision of additional Services by the Provider, on the same terms as specified in this Deed, at the times requested by the Department.

## **14. Additional Services**

- 14.1 The Department and the Provider may agree to the provision of other employment services or employment related services by the Provider to the Department, including applicable terms and conditions.

## **15. The Department may vary certain terms**

- 15.1 Without limiting the Department's rights under this Deed or the law, the Department may, at any time, vary:
- (a) Payments under this Deed;
  - (b) Sites and/or Locations;
  - (c) Referrals to the Provider and the number of Participants on the Provider's caseload; and/or
  - (d) the Business Share allocated to the Provider,
- for all or part of the Term of this Deed, acting reasonably, for any reason by providing Notice to the Provider.
- 15.2 If the Department exercises its rights under clause 15.1:
- (a) where relevant, this Deed is deemed to be varied accordingly; and
  - (b) the Provider must perform all of its obligations under this Deed as varied.

## **Section A2.3 – Some basic rules about financial matters**

### **16. Payments**

- 16.1 Subject to:
- (a) sufficient funds being validly appropriated for the Services;
  - (b) the preconditions for Payment specified in this clause 16 being met; and
  - (c) compliance by the Provider with this Deed to the Department's complete satisfaction,
- the Department will make Payments to the Provider:
- (d) at the times and in the manner specified in this Deed; and
  - (e) to the account(s) specified in item 5 of Schedule 1.
- 16.2 The Provider must not claim or accept a Payment from the Department if the requirements under this Deed which must be satisfied to qualify for the Payment have not been fully and properly met.

#### **Documentary Evidence precondition for Payment**

- 16.3 Subject to clause 16.4, it is a precondition of the Provider's entitlement to be paid a Payment that the Provider has, at the time it makes a claim for or accepts the Payment, true, complete and accurate Documentary Evidence sufficient to prove that the Provider:
- (a) is entitled to the Payment;
  - (b) has delivered the Services relevant to its claim for Payment, and has done so in accordance with this Deed, including any Guidelines.
- 16.4 Where the Provider provides Intensive Stream Services, clause 16.3 does not apply to Payments verified by Services Australia data in accordance with any Guidelines.

- 16.5 The Provider must submit the Documentary Evidence referred to in clause 16.3 to the Department:
- (a) if required by any Guidelines, through the Department's IT Systems at the time of making the relevant claim for a Payment; and
  - (b) otherwise, within five Business Days of any request by the Department to do so.
- 16.6 If the Provider does not comply with clause 16.5, the Provider will be taken not to have delivered the relevant Services and the Department may recover some or all of the relevant Payment from the Provider in accordance with clause 19.
- 16.7 The Department may contact Participants, Employers or any other relevant parties to verify Documentary Evidence provided by a Provider.

#### **General preconditions for Payment**

- 16.8 It is a further precondition of the Provider's entitlement to be paid a Payment that it:
- (a) has a valid ABN, and correctly quotes its ABN on all Tax Invoices provided to the Department; and
  - (b) submits a Tax Invoice to the Department within 12 months after the Completion Date for the Payment, addressed to the Account Manager and including the following information:
    - (i) the words "tax invoice" stated prominently;
    - (ii) the Provider's name and ABN;
    - (iii) the Department's name and address;
    - (iv) the date of issue of the invoice;
    - (v) the title of this Deed and the agreement number (if any) or date of execution;
    - (vi) details of the Services to which the invoice relates;
    - (vii) the total amount payable (including GST); and
    - (viii) the GST amount shown separately.

#### **Timing of Payments**

- 16.9 Despite any other provision of this Deed, the Department is not required to make any Payment to the Provider earlier than within 20 Business Days after the Department receives a Tax Invoice for the Payment in accordance with clause 16.8(b).

#### **Ensuring correct claims for Payment**

- 16.10 The Provider must immediately Notify the Department if the Provider identifies that it has claimed, or accepted, a Payment:
- (a) in breach of this Deed; or
  - (b) in circumstances where the requirements under this Deed to qualify for the Payment have not been fully and properly met.
- 16.11 The Provider must ensure that its Personnel and any Subcontractors who are required to submit claims for Payments have successfully completed Claims Processing Training prior to submitting any claim for a Payment.

## **17. Ancillary Payments**

- 17.1 The Department may pay the Provider Ancillary Payments on such terms and conditions as the Department determines and at the Department's absolute discretion, including on any terms and conditions specified in any Guidelines.

## **18. Overpayment and double payment**

### **Overpayment**

- 18.1 If the Department determines that it has paid any amount to the Provider that the Provider was not entitled to receive under this Deed, then the Department may recover some or all of the relevant amount from the Provider (with the recoverable amount being determined by the Department) as a debt in accordance with clause 19, without limiting the Department's rights under this Deed or the law.

### **Double payment**

- 18.2 The Provider must not demand or receive any payment or any other consideration either directly or indirectly from any Participant for, or in connection with, the Services.
- 18.3 Subject to clause 18.3A, any Guidelines and any express written agreement with the Department to the contrary, the Provider warrants that neither it, nor any Related Entities, are entitled to payment from the Department, other Commonwealth sources or state, territory or local government bodies for providing services to Participants that are the same as, or similar to, the Services.
- 18.3A Clause 18.3 does not apply to any payment that the Provider, or any Related Entities, are entitled to under the jobactive Deed 2015-2022.
- 18.4 For the purposes of clause 18.3, if the Department determines that the Provider, or any Related Entity, is entitled to payment from the Department, other Commonwealth sources or state, territory or local government bodies for providing services that are the same as, or similar to, the Services, the Department may:
- (a) make the relevant Payment;
  - (b) decide not to make the relevant Payment; or
  - (c) recover any relevant Payment made by the Department in accordance with clause 19.

## **19. Debts and offsetting**

- 19.1 Without limiting the Department's rights under this Deed or the law, the Department may recover any amount owed to the Department under this Deed, including any Interest, as a debt due to the Commonwealth and without further proof of the debt being necessary.
- 19.2 The Provider must pay:
- (a) any amount owing to the Department under this Deed within 30 calendar days of receipt of a Notice from the Department requiring payment; and
  - (b) Interest on any part of the amount that is not repaid within 30 calendar days of receipt of the Notice.
- 19.3 Without limiting the Department's rights under this Deed or the law, the Department may offset against any amount owing to the Provider under this Deed, an amount equal to any amount owing by the Provider under this Deed or under any other arrangement with the Department or the Commonwealth.



- 19.4 Notwithstanding any action taken by the Department under clause 19.3, the Provider must continue to perform its obligations under this Deed.

## **20. Taxes, duties and government charges**

- 20.1 All taxes, duties and government charges imposed in Australia or overseas in connection with this Deed must be borne by the Provider.
- 20.2 Unless expressly stated to the contrary, all dollar amounts in this Deed are inclusive of GST.
- 20.3 The Provider must:
- (a) only claim or accept an amount exclusive of GST if a Payment is not in relation to a Taxable Supply;
  - (b) not claim or accept from the Department any amount that it can claim an Input Tax Credit;
  - (c) provide an Adjustment Note to the Department where any amount is repaid (including by offset under clause 19.3) if required by the GST Act; and
  - (d) immediately Notify the Department if it ceases to have a valid ABN or of any changes to its GST status.

## **21. Fraud**

- 21.1 The Provider must:
- (a) not engage in, and must ensure that its Personnel, Subcontractors and agents do not engage in, fraudulent activity in relation to this Deed; and
  - (b) take all reasonable steps to prevent fraud upon the Commonwealth, including implementing an appropriate fraud control plan.

Note: *The Criminal Code Act 1995* (Cth) provides that offences involving fraudulent conduct against the Commonwealth are punishable by penalties including imprisonment.

## **Section A2.4 – Financial statements**

### **22. Financial statements**

- 22.1 The Provider must, for the Term of this Deed, provide financial statements to the Department:
- (a) within 20 Business Days of its annual general meeting, or where no annual general meeting is held, within 20 Business Days after the compilation of the financial statements; and
  - (b) no later than 120 Business Days after the end of its financial year.
- 22.2 If the Provider is a Group Respondent or a partnership, then the Provider must provide one copy of the consolidated financial statements for the Group Respondent or partnership, if available, and individual annual financial statements for each member of the Group Respondent.
- 22.3 For clauses 22.1 and 22.2, the financial statements provided to the Department must be, at a minimum:
- (a) audited if the Provider is required to produce audited annual financial statements under Commonwealth or state or territory legislation;
  - (b) reviewed if the Provider is required to have annual financial statements reviewed under Commonwealth or state or territory legislation; and
  - (c) in a form consistent with the Australian Equivalents to International Financial Reporting Standards requirements for financial statements.

## Section A2.5 – Performance

### 23. Performance assessment, Program Assurance and other evaluation activities

- 23.1 The Department may conduct, and the Provider must provide all reasonable assistance to the Department when it conducts:
- (a) performance monitoring, measuring and evaluation activities for assessing the Provider's performance against the requirements of this Deed;
  - (b) Program Assurance Activities; and
  - (c) additional evaluation activities for evaluating ParentsNext.

Note: The Department may take action under this Deed in relation to a Provider's performance or as a result of Program Assurance Activities. For example, the Department may issue a direction that the Provider must comply with under clause 11 or, if the Provider's performance is less than satisfactory or in breach of this Deed, take action against the Provider under clauses 45 and 83.

- 23.2 The Department may publish information the Department holds in relation to the Provider's performance.

### 24. Customer feedback

- 24.1 The Provider must, in accordance with the Guidelines:
- (a) implement a Customer feedback process that deals with feedback, including the investigation and response to Complaints, about the Provider's conduct of the Services;
  - (b) communicate the Customer feedback process to its Customers;
  - (c) refer a Customer who is dissatisfied with the Customer feedback process or the Provider's investigation of a Complaint to the Department's National Customer Service Line;
  - (d) assist authorities investigating any Complaint by a Customer, if the Customer chooses to use legislative or other complaint mechanisms; and
  - (e) keep a Customer feedback register.

### 25. Sample reviews

- 25.1 Without prejudice to any other rights of the Department under this Deed or the law (including the right to engage in any other form of sampling activity):
- (a) the Department may:
    - (i) evaluate how the Provider has claimed Payments, by reviewing and investigating only a sample of claims for Payments generally, or of Payments of a particular type or class ('**Sample Review**'); and
    - (ii) for the purposes of a Sample Review, take into account data collected from any source without limitation; and
  - (b) if the results of a Sample Review show that the Provider has, in relation to all or a proportion of the claims for Payments included in a Sample Review, made claims for Payments:
    - (i) in breach of this Deed; or
    - (ii) in circumstances where it was not entitled to claim the Payments, as determined by the Department, then the Provider is, subject to clause 25.3, taken to have invalidly claimed all Payments, or that proportion of all Payments, as relevant:
    - (iii) generally; or

(iv) of the relevant type or class of Payments,  
as relevant to the Sample Review, for the period of the Sample Review (**'Deemed Invalid Claims'**).

- 25.2 In relation to Deemed Invalid Claims, the Department may, at its absolute discretion and without limiting its other remedies under this Deed or the law, do any one or more of the following by providing Notice to the Provider:
- (a) exercise any remedies specified in clause 45 in respect of some or all of those claims;
  - (b) exercise any of its rights under clause 48; and/or
  - (c) exercise any of its rights to take remedial action in relation to the Provider's performance under clause 83.

### **Sampling methodology**

- 25.3 For the purposes of clause 25.1, the Department may use any statistical methodology to undertake a Sample Review, provided that the Department has been advised by a statistician who is a Fellow of the Actuaries Institute of Australia or is accredited by the Statistical Society of Australia Inc. that the methodology:
- (a) is, or will give results that are, statistically valid for the purpose of demonstrating the matters covered by this clause 25; and
  - (b) will provide at least a 95% confidence level that the proportion and/or value of invalid claims identified in the Sample Review can be extrapolated under clause 25.1(b) to that proportion and/or value of Payments generally or of the relevant type or class of Payments as relevant to the Sample Review, for the period of the Sample Review.
- 25.4 The Department must disclose the methodology used in a Sample Review to the Provider before exercising the Department's rights under clause 25.2.

## **CHAPTER A3 – INFORMATION MANAGEMENT**

### **Section A3.1 – Information Technology**

#### **26. General**

- 26.1 The Provider must conduct the Services by Accessing the Department's IT Systems provided by the Department for that purpose.
- 26.2 The Department may require that data relating to specific transactions must only be stored on the Department's IT Systems, and the Provider must comply, and ensure that all Subcontractors and Third Party IT Vendors comply, with any such requirements.
- 26.3 The Department may:
- (a) provide training on Accessing the Department's IT Systems, by computer-assisted learning packages or otherwise; and
  - (b) require that Personnel and Subcontractors must not Access the Department's IT Systems until they have successfully completed the relevant training, and the Provider must comply with any such requirement.
- 26.4 The Provider is responsible for all costs of meeting its obligations under this clause 26.

## 27. Access and information security assurance

### Access to the Department's IT Systems

- 27.1 The Provider must provide information technology systems, to Access the Department's IT Systems and to carry out its other obligations under this Deed, that meet the requirements set out in this clause 27.

### External IT Systems

Note: An 'External IT System' means any information technology system or service, other than the Department's IT Systems, used by the Provider or any Subcontractor in association with the delivery of the Services or to Access the Department's IT Systems. External IT System includes a Provider IT System and any Third Party IT.

- 27.2 The Provider must:

- (a) advise the Department by email to [securitycompliancesupport@employment.gov.au](mailto:securitycompliancesupport@employment.gov.au), or such other address as advised by the Department from time to time, of any proposed:
  - (i) use of any External IT System to Access the Department's IT Systems, and if the Department imposes any terms and conditions in respect of such use, comply, and ensure that all relevant Subcontractors comply, with those terms and conditions; and
  - (ii) modification to the functionality of any Provider IT System that impacts, or may have an impact, on the security of that Provider IT System, and if the Department imposes any terms and conditions in respect of the use of that Provider IT System, comply, and ensure that all relevant Subcontractors comply, with those terms and conditions;
- (b) ensure that any External IT System used:
  - (i) meets the minimum requirements of the Department for Access to the Department's IT Systems, as specified in any Guidelines or as otherwise advised by the Department;
  - (ii) does not negatively impact the performance, availability or data integrity of the Department's IT Systems;
  - (iii) meets the relevant requirements of the ESAF;
  - (iv) does not introduce or permit the introduction of Malicious Code into the Department's IT Systems;
  - (v) has secure log ons for each operator such that each operator's logon is uniquely identifiable to the Department and entries are traceable, and have date and time stamps;
  - (vi) does not default answers to questions or input fields where the Department's IT Systems has no default setting; and
  - (vii) meets the minimum requirements of the Department for Record keeping and program assurance purposes, as specified in this Deed including any Guidelines or as otherwise advised by the Department; and
- (c) ensure that any and all Records held in any External IT System relating directly or indirectly to the Services can be, and are, provided on request to the Department and in an unadulterated form (i.e. with no amendments or transformations to the Records or their data structures).

- 27.3 The Department:

- (a) may make changes to the Department's IT Systems at any time, notwithstanding that such changes may affect the functioning of an External IT System; and

- (b) will provide reasonable information about those changes to the Provider; and the Provider:
- (c) must, notwithstanding any such change, at its sole cost, ensure that all External IT Systems are consistent with the Department's IT Systems at all times; and
- (d) agrees that the Department is not responsible for any loss, costs or legal liability of the Provider arising from such changes.

### **Provider IT System accreditation**

Note: A 'Provider IT System' means an information technology system used by the Provider or any Subcontractor in association with the delivery of the Services or to Access the Department's IT Systems.

- 27.4 Subject to the requirements of the ESAF, the Provider must, and must ensure that its Subcontractors:
- (a) obtain accreditation for any Provider IT System in accordance with the requirements and timeframes set out in the ESAF and bear any costs associated with doing so; and
  - (b) maintain such accreditation until the Completion Date.
- 27.5 Where a Provider IT System is modified, the Provider must ensure that any necessary reaccreditation activities are completed in accordance with the requirements of the ESAF.
- 27.6 For the purposes of clause 27.4(b), the Provider must, and must ensure that its Subcontractors, obtain reaccreditation of all Provider IT Systems in accordance with the requirements of the ESAF.
- 27.7 Unless otherwise expressly set out in this clause 27, accreditation and reaccreditation under this clause 27 must be awarded by the Department.
- 27.8 If the Provider or any Subcontractor does not obtain accreditation or reaccreditation within the timeframes specified in the ESAF or this clause 27, the Provider must immediately cease using, and ensure that any relevant Subcontractor ceases using, the relevant Provider IT System.
- 27.9 If the ESAF requires that any Personnel or Subcontractors of the Provider must complete specific personnel vetting requirements for the purposes of accreditation or reaccreditation:
- (a) the Provider must ensure that its relevant Personnel and Subcontractors successfully complete the required personnel vetting processes, and bear any costs associated with doing so; and
  - (b) the Department will sponsor any Australian Government clearances as required by the ESAF.

### **Third Party IT**

Note: 'Third Party IT' means any information technology system developed and managed, or information technology service provided, by a Third Party IT Vendor and used by the Provider or any Subcontractor in association with the delivery of the Services or to Access the Department's IT Systems. 'Third Party IT' includes a Third Party Employment System and a Third Party Supplementary IT System. A Third Party Employment System and a Third Party Supplementary IT System include any relevant information technology service provided by a Third Party IT Vendor.

- 27.10 The Provider must:
- (a) not directly or indirectly allow Access to electronic Records relating to the Services, or any derivative thereof, to any Third Party IT Vendor until such Third Party IT Vendor has met the relevant requirements of the ESAF and has:

- (i) for any Third Party IT Vendor that provides or uses a Third Party Employment System, entered into a Third Party IT Vendor Deed with the Department, and only grant such Access in accordance with the terms of the relevant Third Party IT Vendor Deed and any Guidelines; and
  - (ii) for any Third Party IT Vendor that provides or uses a Third Party Supplementary IT System, been assessed and accredited by the Provider in accordance with the requirements of the ESAF, and only grant such Access in accordance with the terms of the ESAF;
- (b) in any contract with any Third Party IT Vendor that provides or uses Third Party IT, ensure that any and all Records held in Third Party IT relating directly or indirectly to the Services, can be, and are, provided on request to the Department or the Provider and in an unadulterated form (i.e. with no amendments or transformations to the Records or their data structures);
- (c) in any contract with any Third Party IT Vendor that provides or uses a Third Party Employment System:
- (i) provide that the Third Party IT Vendor may only subcontract its obligations under that contract to another entity that has entered into a Third Party IT Vendor Deed with the Department; and
  - (ii) reserve a right of termination to take account of the Department's right of termination in the relevant Third Party IT Vendor Deed;
- (d) on receipt of any advice from the Department that it has terminated a relevant Third Party IT Vendor Deed, terminate the Provider's contract with the relevant Third Party IT Vendor and, at its own cost, promptly cease using the Third Party IT Vendor;
- (e) impose the obligations set out in this clause 27.10 on any Subcontractor Accessing electronic Records relating to the Services; and
- (f) advise the Department by email to [securitycompliancesupport@employment.gov.au](mailto:securitycompliancesupport@employment.gov.au), or such other address as advised by the Department from time to time, of any proposed use of any Third Party IT for the analysis of Records relating directly or indirectly to the Services, or any derivative thereof, and if the Department imposes any terms and conditions in respect of such use, comply, and ensure that all relevant Subcontractors and Third Party IT Vendors comply, with those terms and conditions.

### **Technical advice**

#### **27.11 The Provider must:**

- (a) nominate Personnel to receive technical advice from the Department on the Department's IT Systems, and to provide advice to the Department on technical issues arising from Accessing the Department's IT Systems ('IT Contact');
- (b) ensure that the IT Contact:
  - (i) disseminates technical advice to any Subcontractor and Personnel of the Provider in order to minimise disruption to the Services; and
  - (ii) provides advice, as requested by the Department:
    - (A) to assist in the resolution of the Department's IT Systems technical issues; and
    - (B) in relation to the Provider's readiness to deploy system upgrades to the Department's IT Systems; and

(c) where the IT Contact changes, advise the Department accordingly.

### **Security**

- 27.12 The Provider must comply, and ensure that its Subcontractors and Third Party IT Vendors comply, with the Department's Security Policies and the Cybersafety Policy, as relevant.
- 27.13 The Provider must ensure that a Security Contact is appointed at all times during the Term of this Deed, and that, at all times, the Department has up to date contact details for the current Security Contact.
- 27.14 The Provider must (through its Security Contact) promptly report all breaches of IT security to the Employment Systems Help Desk, including where any Personnel or any Subcontractor suspect that a breach may have occurred or that a person may be planning to breach IT security, and provide updates on their resolution.
- 27.15 Where the Department considers that the Provider may be in breach of this clause 27, or there is a risk of such a breach, the Department may, at its absolute discretion, immediately suspend Access, or require the Provider to cease all Access, to the Department's IT Systems for any one or more of the following:
- (a) any Personnel;
  - (b) any Subcontractor;
  - (c) any Third Party IT Vendor;
  - (d) the Provider; or
  - (e) any External IT System,
- by providing Notice to the Provider.
- 27.16 Where the Department determines that the Provider is in breach of, or has previously breached, this clause 27, the Department may immediately take action including any one or more of the following:
- (a) suspending, terminating, or requiring the cessation of all Access to the Department's IT Systems for any Personnel, Subcontractor, Third Party IT Vendor, External IT System or the Provider;
  - (b) applying bandwidth throttling measures in respect of all Access to the Department's IT Systems for any Personnel, Subcontractor, Third Party IT Vendor, External IT System or the Provider;
  - (c) requiring the Provider to obtain new logon IDs for any Personnel, Subcontractor or Third Party IT Vendor and if so required, the Provider must promptly obtain such new logons; or
  - (d) requiring the Provider to prepare and implement an IT security plan to the Department's satisfaction, and if so required, the Provider must do so within the timeframe required by the Department.
- 27.17 Any action taken by the Department under clauses 27.15 to 27.16 does not limit any other rights the Department has under this Deed, including pursuant to clause 45, or under the law.
- 27.18 If the Department gives Notice to the Provider that Access to the Department's IT Systems is terminated for any particular Personnel, Subcontractor or Third Party IT Vendor, the Provider must immediately take all actions necessary to terminate that Access and promptly confirm to the Department that it has complied with the Department's requirements.

### **Cybersafety Policy**

- 27.19 For the purposes of clauses 27.20 to 27.23:
- ‘Clients’** means persons who may use the Provider’s computers and/or other digital technology that is supported through public funding provided pursuant to this Deed, and includes but is not limited to, the Provider, the Provider’s staff and the public, whether they be adult or Children.
- ‘Reasonable Steps’** means having in place strategies to minimise and manage risks of exposure to inappropriate or harmful on-line content by users of computers, particularly Children, and may include, but is not limited to, having a policy in place regarding appropriate use and protection for Clients, installation of filters, audits and provision of information or training to the Provider’s staff regarding the risks of, and protection from, inappropriate or harmful on-line content.
- 27.20 The Cybersafety Policy is that where an organisation is funded by the Department to carry out the Services using computers and/or other digital technology, the safety of Clients when using those computers and/or other digital technology must be assured.
- 27.21 The Provider must take Reasonable Steps to protect its Clients’ cybersafety.
- 27.22 If the Department gives the Provider Notice requiring it, the Provider must provide the Department, within 10 Business Days of receiving the Notice, with evidence satisfactory to the Department that the Provider has complied with the requirements of this Cybersafety Policy.
- 27.23 The Provider agrees to include its obligations in relation to this Cybersafety Policy in all Subcontracts it enters into in relation to the Services.

## **Section A3.2 – Property rights**

### **28. Intellectual Property Rights**

#### **Commonwealth Material and Deed Material**

- 28.1 Subject to clause 28.4, the ownership of Intellectual Property Rights in, and the actual documents comprising, all Commonwealth Material and Deed Material vests in the Department.
- 28.2 The Department grants the Provider a licence to use, copy and reproduce Commonwealth Material and Deed Material, but only within Australia, for the purposes of this Deed and in accordance with any conditions or restrictions Notified by the Department to the Provider.
- 28.3 The licence in clause 28.2 is revocable on 10 Business Days’ Notice by the Department, and expires on the Completion Date.

#### **Existing Material**

- 28.4 This Deed does not affect the ownership rights in any Existing Material.
- 28.5 The Provider grants the Department, or must arrange for the grant to the Department of, a permanent, irrevocable, free, world-wide, non-exclusive licence (including a right of sublicense) to use, reproduce, communicate, adapt and exploit the Intellectual Property Rights in Existing Material for any purpose.

#### **Dealing with Intellectual Property Rights**

- 28.6 The Provider warrants that it:
- (a) is entitled, or will be entitled at the relevant time, to deal with the Intellectual Property Rights in Deed Material and Existing Material in accordance with this clause 28; and



- (b) has obtained valid, unconditional and irrevocable written consents from all Intellectual Property Rights owners and authors of Deed Material and Existing Material so that the Department's use of that Material will not infringe:
  - (i) the Intellectual Property Rights of any third party; or
  - (ii) any author's Moral Rights.

28.7 For clause 28.6, 'infringe' includes unauthorised acts that would, but for the operation of section 163 of the *Patents Act 1990* (Cth), section 96 of the *Designs Act 2003* (Cth), section 183 of the *Copyright Act 1968* (Cth), and section 25 of the *Circuits Layouts Act 1989* (Cth), constitute an infringement.

28.8 The Provider must:

- (a) if requested by the Department to do so, create, sign, execute or otherwise deal with any document that may be necessary or desirable to give effect to this clause 28; and
- (b) deliver all Deed Material to the Department at the Completion Date, unless otherwise Notified by the Department.

#### **Commonwealth Coat of Arms**

28.9 The Provider must not use the Commonwealth Coat of Arms for the purposes of this Deed or otherwise, except as authorised in accordance with the [Use of the Commonwealth Coat of Arms General Guidelines \(https://www.pmc.gov.au/government/commonwealth-coat-arms\)](https://www.pmc.gov.au/government/commonwealth-coat-arms).

### **Section A3.3 – Control of information**

#### **29. Personal and Protected Information**

29.1 Clauses 29.2 to 29.3 apply only where the Provider deals with Personal Information for the purpose of conducting the Services under this Deed, and the terms 'agency', 'APP Code', 'contracted service provider', 'eligible data breach', 'organisation', 'sensitive information' and 'Australian Privacy Principle' (**APP**) have the same meaning as they have in section 6 of the Privacy Act, and 'subcontract' and other grammatical forms of that word have the meaning given in section 95B(4) of the Privacy Act.

29.2 The Provider acknowledges that it is a contracted service provider and agrees, in respect of the conduct of the Services under this Deed:

- (a) to use or disclose Personal Information, including sensitive information, obtained in the course of conducting the Services ('relevant Personal Information'), only for the purposes of this Deed or where otherwise permitted under the Privacy Act;
- (b) except where this clause expressly requires the Provider to comply with an APP that applies only to an organisation, to carry out and discharge the obligations contained in the APPs as if it were an agency;
- (c) not to do any act or engage in any practice that if done or engaged in by an agency, or where relevant, an organisation, would be a breach of an APP or contrary to the Privacy Act;
- (d) to co-operate with reasonable demands or inquiries made by the Australian Information Commissioner or the Department in relation to the management of Personal Information;
- (e) to notify individuals whose Personal Information it holds, that:

- (i) complaints about its acts or practices may be investigated by the Australian Information Commissioner who has power to award compensation against the Provider in appropriate circumstances; and
  - (ii) their Personal Information may be disclosed and passed on to the Department and to other persons in relation to providing the Services;
- (f) unless expressly authorised or required under this Deed, not engage in any act or practice that would breach:
- (i) APP 7 (direct marketing);
  - (ii) APP 9 (adoption, use or disclosure of government related identifiers); or
  - (iii) any registered APP code that is applicable to the Provider;
- (g) to comply with any request under section 95C of the Privacy Act;
- (h) to comply with any directions, Guidelines, determinations, rules or recommendations of the Australian Information Commissioner to the extent that they are consistent with the requirements of this clause 29;
- (i) not to transfer relevant Personal Information outside of Australia, or to allow parties outside Australia to have access to it, without the prior written approval of the Department;
- (j) to its name being published in reports by the Australian Information Commissioner;
- (k) if the Provider suspends or terminates Personnel:
- (i) to remove any access that the Personnel have to any relevant Personal Information;
  - (ii) to require that the Personnel return to the Provider or the Department any relevant Personal Information held in the Personnel's possession; and
  - (iii) it must remind the Personnel of their relevant obligations under this Deed; and
- (l) to ensure that any of its Personnel who are required to deal with relevant Personal Information:
- (i) where required by the Department, undertake in writing to comply with the APPs (or a registered APP code, where applicable); and
  - (ii) are made aware of their obligations in this clause 29, including to undertake in writing to comply with the APPs (or a registered APP code, where applicable).

29.3 The Provider must immediately Notify the Department if it becomes aware:

- (a) of a breach or possible breach of any of the obligations contained in, or referred to in, this clause 29 by any Personnel or Subcontractor;
- (b) that an eligible data breach in relation to Personal Information received, created or held by the Provider in the course of conducting the Services has or may have occurred;
- (c) that a disclosure of Personal Information may be required by law; or
- (d) of an approach to the Provider by the Australian Information Commissioner or by an individual claiming that their privacy has been interfered with.

#### **Protected Information**

29.4 The Provider must ensure that when handling Protected Information, it complies with the requirements under Division 3 [Confidentiality] of Part 5 of the *Social Security (Administration) Act 1999* (Cth).

### **Notifiable data breaches**

- 29.5 Where one Party Notifies the other Party that an eligible data breach in relation to Personal Information received, created or held by the Provider in the course of conducting the Services has or may have occurred, the Provider must:
- (a) carry out an assessment in accordance with the requirements of the Privacy Act;
  - (b) take all reasonable action to mitigate the risk of the eligible data breach causing serious harm to any of the individuals to whom the Personal Information relates;
  - (c) take all other action necessary to comply with the requirements of the Privacy Act (including preparing a statement for the Australian Information Commissioner and notifying affected individuals about the eligible data breach where required); and
  - (d) take any other action as reasonably directed by the Department.

## **30. Confidential Information**

- 30.1 Subject to this clause 30, the Parties must not, without each other's prior written approval, disclose any of each other's Confidential Information to a third party.
- 30.2 The obligations on the Parties under this clause 30 will not be breached if information:
- (a) is shared by the Department within the Department, or with another agency, where this serves the Commonwealth's legitimate interests;
  - (b) is disclosed by the Department to the responsible Minister or the Minister's staff;
  - (c) is disclosed by the Department in response to a request or direction by a House or a Committee of the Parliament of the Commonwealth of Australia;
  - (d) is authorised or required by law to be disclosed; and/or
  - (e) is in the public domain otherwise than due to a breach of this clause 30.
- 30.3 Nothing in this clause 30 limits the obligations of the Provider under clauses 29 or 34.

## **Section A3.4 – Records Management**

### **31. Keeping and dealing with Records**

- 31.1 Subject to clauses 32, 33 and 34, the Provider must:
- (a) create and maintain true, complete and accurate Records in connection with the performance of its obligations under this Deed; and
  - (b) only use, store, retain, provide access to, transfer and destroy Records, in accordance with this Deed and the Records Management Instructions.
- 31.2 The Provider must ensure that Records in its custody are not transferred outside of Australia, or to any other person, entity or organisation, without the prior written approval of the Department.

#### **Financial Accounts and Records**

- 31.3 The Provider must keep financial accounts and Records of its transactions and affairs relating to Payments received under this Deed:
- (a) in accordance with Australian Equivalents to International Financial Reporting Standards; and
  - (b) such that:

- (i) all Payments are clearly and separately identified from each other and from other money of the Provider; and
- (ii) an auditor or other person may examine them at any time and thereby ascertain the Provider's financial position.

#### **Access to Participant Services Records**

- 31.4 Subject to clauses 32, 33 and 34, the Provider must ensure that access to Participant Services Records is restricted to the Personnel and any Subcontractors providing Services to a Participant, or any Third Party IT Vendor.

#### **Third Party IT Vendors**

- 31.5 If any Third Party IT Vendor creates or maintains Records in association with the delivery of the Services by the Provider, the Provider must comply, and must ensure that the Third Party IT Vendor complies, with the requirements in this clause 31 in respect of any such Records.

### **32. Access by Participants and Employers to Personal Information held by the Provider**

- 32.1 Subject to clause 32.2, where an individual requests access to Records that contain their own Personal Information, the Provider must:
- (a) allow access to the requested Records unless Commonwealth legislation would require or authorise refusal of access if the Records were in the possession of the Commonwealth;
  - (b) obtain proof of identity from the individual before access is given; and
  - (c) notate relevant files with details of the Records accessed, the name of the person granted access and the date and time of access.
- 32.2 The Provider must direct a request for access to the Department for consideration where the Record contains:
- (a) information about another person;
  - (b) medical/psychiatric records, other than those actually supplied by the individual requesting access, or where it is clear that the individual requesting access has a copy or has previously sighted a copy of the records;
  - (c) psychological records; and
  - (d) information provided by third parties.

### **33. Access to documents for the purposes of the *Freedom of Information Act 1982 (Cth)***

- 33.1 In this clause 33, 'document' has the same meaning as in the *Freedom of Information Act 1982 (Cth)*.
- 33.2 The Provider agrees that:
- (a) where the Department has received a request for access to a document created by, or in the possession of the Provider, any Subcontractor or any Third Party IT Vendor, the Department may, at any time, by Notice, require the Provider to provide the document to the Department and the Provider must, at no additional cost to the Department, promptly comply with the Notice;
  - (b) the Provider must assist the Department in respect of the Department's obligations under the *Freedom of Information Act 1982 (Cth)*, as required by the Department; and

- (c) the Provider must include in any Subcontract, or contract with a Third Party IT Vendor, provisions that will enable the Provider to comply with its obligations under this clause 33.

## **34. Access to premises and Records**

- 34.1 The Provider must at all reasonable times give or arrange for any Department Employee:
- (a) unfettered access to:
    - (i) its premises and those of any Subcontractor or Third Party IT Vendor;
    - (ii) any External IT System;
    - (iii) all Material, including Material relevant to claims for Payment, determining the Provider's financial viability, and compliance with relevant work, health and safety and industrial relations legislation; and
    - (iv) its Personnel, Subcontractors and Third Party IT Vendors; and
  - (b) all assistance, as required by the relevant Department Employee, to:
    - (i) inspect its premises and those of any Subcontractor or Third Party IT Vendor;
    - (ii) inspect the performance of Services; and
    - (iii) locate, inspect, copy and remove, all Material including data stored on the Provider's information technology systems or those of any Subcontractor or Third Party IT Vendor.
- 34.2 Subject to clause 34.3, the obligations referred to in clause 34.1 are subject to the provision of reasonable prior notice to the Provider and compliance with the Provider's reasonable security procedures.
- 34.3 If:
- (a) a matter is being investigated that, in the opinion of the Department, may involve:
    - (i) an actual or apprehended breach of the law;
    - (ii) a breach of this Deed; or
    - (iii) suspected fraud; or
  - (b) the Department is otherwise conducting Program Assurance Activities in relation to the Provider,

clause 34.2 does not apply, and Department Employees may remove and retain any Material that the Department determines is relevant to the investigation, including items stored on an electronic medium, provided that the Department returns a copy of all such Material to the Provider within a reasonable period of time.

Note: There are additional rights of access under the *Ombudsman Act 1976* (Cth), the *Privacy Act 1988* (Cth), and the *Auditor-General Act 1997* (Cth).

## **CHAPTER A4 – DEED ADMINISTRATION**

### **Section A4.1 – Indemnity and insurance**

## **35. Indemnity**

- 35.1 The Provider must indemnify the Department against any:
- (a) loss, cost or liability incurred by the Department; and

- (b) loss or expense incurred by the Department in dealing with any claim against the Department, including legal costs and expenses on a solicitor/own client basis and the cost of time spent, resources used, or disbursements paid by the Department,

arising from or in connection with:

- (c) any act or omission by:

- (i) the Provider;
- (ii) a Subcontractor (whether or not the relevant entity is a current Subcontractor); or
- (iii) an Activity Host Organisation or Third Party IT Vendor engaged by the Provider other than as a Subcontractor,

in connection with this Deed, where there was fault on the part of the person whose conduct gave rise to that cost, liability, loss, damage, or expense;

- (d) any breach by the Provider of this Deed or failure to meet an undertaking given under this Deed;
- (e) any publication of the information referred to in clauses 23.2 or 52, where the published information was provided by the Provider to the Department; or
- (f) the use by the Department of the Deed Material or Existing Material, including any claims by third parties about the ownership or right to use Intellectual Property Rights or Moral Rights in Deed Material or Existing Material.

35.2 The liability of the Provider to indemnify the Department under this clause 35 will be reduced proportionately to the extent that fault on the Department's part contributed to the relevant cost, loss, damage, expense, or liability.

35.3 The Department's right to be indemnified under this clause 35 is in addition to any other right, power, or remedy provided by law, but the Department will not be entitled to be compensated in excess of the amount of the relevant loss, damage, expense or liability.

#### **Meaning of fault**

35.4 In this clause 35, 'fault' means any negligent or unlawful act or omission or wilful misconduct, including fraud.

### **36. Insurance**

36.1 Subject to this clause 36 and unless the Department otherwise agrees in writing, the Provider must, for the Term of this Deed, effect and maintain or cause to be effected and maintained, the following insurances, which must be valid and enforceable and, except for the statutory workers' compensation insurance referred to at clause 36.1(b)(i)(A) and the professional indemnity insurance or errors and omissions insurance at clause 36.1(d), be written on an occurrence basis:

- (a) public liability insurance with a limit of indemnity of at least \$10 million in respect of each and every occurrence, which covers:
  - (i) the Provider's liability and the liability of its Personnel, representatives and agents (including to the Department and to the Participants) at general law and additionally as assumed under the terms of clause 37; and
  - (ii) the vicarious liability of the Department in respect of the acts or omissions of the Provider, its Personnel, representatives and agents;

in respect of:

- (iii) loss of, or damage to, or loss of use of any real or personal property (including property of the Department in the care, custody or control of the Provider); and
  - (iv) the bodily injury, disease or illness (including mental illness) or death of any person (other than a liability insured under the insurance referred to at clause 36.1(b)), arising out of, or in connection with, the Provider's performance of this Deed;
- (b) insurance which insures any injury, damage, expense, loss or liability suffered or incurred by any person engaged in work by the Provider under this Deed:
- (i) giving rise to a claim:
    - (A) under any statute relating to workers' compensation; and
    - (B) where common law claims by such workers are permissible outside of the statutory scheme referred to at clause 36.1(b)(i)(A), for employer's liability at common law with a limit of indemnity of at least \$50 million in respect of each and every occurrence;
  - (ii) in each Australian state or territory where the Services are performed or delivered; and
  - (iii) where possible under the relevant law or scheme governing workers' compensation insurance and in respect of all employers' liability policies, extending to indemnify the Department for its liability as principal in relation to any such claim;
- (c) for any motor vehicle used in the performance of this Deed:
- (i) insurance with a limit of indemnity of at least \$20 million in respect of each and every occurrence which covers:
    - (A) third party property damage arising from the use of any plant or vehicles (registered or unregistered) used in respect of the performance of this Deed (including transporting Participants); and
    - (B) the bodily injury, disease or illness (including mental illness) or death of, any person arising from the use of any unregistered plant or vehicles used in or in connection with the performance of the Services pursuant to this Deed (including transporting Participants);
  - (ii) compulsory third party motor vehicle insurance for all registrable vehicles used in the performance of this Deed (including transporting Participants in the Provider's or the Provider's employee's vehicles);
- (d) for any Services provided in a professional capacity – professional indemnity insurance or errors and omissions insurance to be maintained during the Term of this Deed and for at least seven years following the Completion Date with a limit of indemnity of at least \$5 million in respect of each claim and in the aggregate for all claims in any one 12 month policy period with one right of reinstatement which covers the liability of the Provider at general law and additionally as assumed under the terms of clause 37 arising from:
- (i) a breach of duty owed in a professional capacity in connection with the performance of this Deed or, where errors and omissions insurance is effected, arising from an error or omission in judgement by the Provider, its Personnel, representatives or agents; and
  - (ii) unintentional breaches of Intellectual Property Rights;
- (e) if the provision of the Services involves the provision a product – products liability insurance with a limit of indemnity of at least \$10 million in respect of each and every occurrence, which covers:

- (i) the Provider's liability and the liability of its Personnel, representatives and agents (including to the Department and to the Participants) at general law and additionally as assumed under the terms of clause 37; and
- (ii) the vicarious liability of the Department in respect of the acts or omissions of the Provider, its Personnel, representatives and agents,

in respect of:

- (iii) loss of, damage to, or loss of use of any real, personal or intangible property (including property of the Department in the care, custody or control of the Provider, and including the Department's IT Systems); and
  - (iv) the bodily injury, disease or illness (including mental illness) or death of, any person (other than a liability insured under the insurance referred to in clause 36.1(b)), arising out of or in connection with any products installed, repaired, serviced, sold, supplied or distributed in the performance of the Services, or in connection with, this Deed;
- (f) personal accident insurance providing a sliding scale of benefits (in conformance with current insurance market practice for such policies) with a maximum benefit of at least \$250,000 in respect of each and every occurrence that covers Participants while:
- (i) on the Provider's premises;
  - (ii) undertaking employment services activities, but not including undertaking an Activity or any other activity specified in any Guidelines; and
  - (iii) travelling by the most direct route between:
    - (A) the Provider's premises and the Participant's home or Services Australia following Referral;
    - (B) the Provider's premises and job interviews; and
    - (C) the Participant's home and job interviews, following referral by the Provider; and
  - (g) if the Provider will use an aircraft or marine vessel for the purposes of performing this Deed and the aircraft or marine vessel is owned or chartered by the Provider, marine liability and/or aircraft liability insurance, as is appropriate, covering the liability of the Provider, its Personnel, representatives and agents (including to the Department, Participants and passengers) in respect of liability for third party personal injury or death or loss of or damage to third party property (including cargo) with a limit of indemnity of at least \$20 million in respect of each and every occurrence unless such liability is otherwise insured under the insurance effected in compliance with clause 36.1(a).

36.2 The Provider must also effect and maintain, or cause to be effected and maintained, any other insurance policies required to adequately cover the Provider's business risk that a similar ParentsNext Provider, acting reasonably, would acquire, and any other insurance cover required by law.

36.3 Unless otherwise agreed by the Department in writing, all insurances required under this clause 36 (other than statutory workers' compensation insurance and compulsory third party motor vehicle insurance) must be obtained from an insurer authorised by the Australian Prudential Regulation Authority.

36.4 Each of the insurances required by this clause 36 (other than statutory workers' compensation insurance and compulsory third party motor vehicle insurance) that insures more than one person, must include:



- (a) a cross-liability clause, whereby the insurer agrees that the policy shall be construed as if a separate policy has been issued to each insured person (but not so as to increase the overall limit of liability) (this clause does not apply to any professional indemnity or errors and omissions insurance required by this clause 36);
- (b) a waiver of subrogation clause, whereby the insurer agrees to waive all rights of subrogation or action that it may have or acquire against any or all of the persons insured (at least to the extent that they are insured under the policy);
- (c) a non-imputation clause, whereby the insurer agrees that any failure by any insured person to observe and fulfil the terms of the policy, or to comply with the terms of the policy, or to comply with that insured person's pre-contractual duty of disclosure does not prejudice the insurance of any other person insured under the policy;
- (d) a severability clause in which the insurer agrees to treat the insurance policy as if a separate policy has been issued to each insured person for the purposes of determining rights to indemnity; and
- (e) a clause whereby notice of a claim given to the insurer by any insured person will be accepted by the insurer as notice of a claim given by all the persons insured under the policy.

36.5 Clauses 36.4(a), (c) and (e) do not apply to any personal accident insurance required by this clause 36.

36.6 In relation to the insurances specified in this clause 36, the Provider must abide by the terms and conditions of any relevant policy, and do everything reasonably required to claim and to collect or recover monies due under any policy.

36.7 The Provider must Notify the Department immediately when it:

- (a) becomes aware of any actual, threatened or likely claim under any of the insurances which the Provider is obliged to effect and maintain, that could materially reduce the available limits or involve the Department (other than a claim by the Department against the Provider which would be insured under the insurance referred to in clause 36.1(d)); or
- (b) receives a notice of cancellation in respect of any of the insurances that the Provider is obliged to effect and maintain.

36.8 The Provider must ensure that all Subcontractors retained by it to perform work in connection with this Deed are covered by insurance of the types specified in this clause 36, as is appropriate (including as to limits of indemnity) given the nature of the work to be performed by each such Subcontractor.

#### **Evidence of insurance**

36.9 Subject to clause 36.10, the Provider must obtain written independent professional advice that the insurances obtained by it and any Subcontractors pursuant to this clause 36 meets the requirements of this Deed:

- (a) before commencing the performance of any Services and in any event within 20 Business Days of the Deed Commencement Date; and
- (b) within 10 Business Days of the date of renewal of each of the insurances required under this Deed.

36.10 Where the advice referred to in clause 36.9 relates to insurances obtained by a Subcontractor, the written independent professional advice in relation to that insurance may be obtained by either the Provider or the Subcontractor.

- 36.11 Clause 36.9 does not apply to statutory workers' compensation insurance or compulsory third party motor vehicle insurance.
- 36.12 The Provider must, within 10 Business Days of 1 July each year, or at any other time that the Department requests, provide to the Department an insurance declaration form, in the form required by the Department.
- 36.13 In relation to each insurance policy relied upon by the Provider in compliance with the Provider's obligations to effect and maintain, or cause to be effected and maintained, insurance as required by this Deed, the Provider must provide to the Department:
- (a) a full copy of the insurance policy;
  - (b) a certificate of currency; and
  - (c) a copy of the independent professional advice required by clause 36.9,
- at any time that the Department requests.
- Note: Clause 36.13 allows the Department to request information relating to the insurances of any Subcontractor of the Provider.
- 36.14 The Provider must not change, during the term of any policy, its insurer(s) unless the Department is satisfied that the change will not reduce or terminate any cover that exists prior to the proposed change and has agreed in writing to the change.

#### **Assistance to the Department**

- 36.15 The Provider must:
- (a) give full, true and particular information, in respect of any proposal for a policy of insurance (including any policy issued pursuant to any self-insurance scheme of the Commonwealth) to be effected by the Department, of all matters and things the non-disclosure of which might in any way prejudice or affect any policy or the payments of all or any benefits under a policy; and
  - (b) provide all reasonable assistance to the Department, in order to facilitate the Commonwealth making a claim under any insurance policy or self-insurance scheme effected for the Commonwealth's benefit.
- 36.16 For the avoidance of doubt, the provisions of this clause 36 are not to be read so as to reduce a Party's liability under any other provision of this Deed, and compliance by the Provider with the provisions of this clause 36 does not limit its liability under any other provision of this Deed.

### **37. Liability of the Provider to the Department**

#### **Joint and several liability**

- 37.1 To the extent permitted by law, where:
- (a) more than one Party is a signatory to this Deed as the Provider – each of those Parties;
  - (b) the Provider is a partnership – each partner; or
  - (c) the Provider is a Group Respondent – each member of the Group Respondent;
- is jointly and severally liable for:
- (d) the performance of all of the obligations of the Provider under this Deed; and
  - (e) all losses caused by any Subcontractor engaged for the purpose of this Deed.

### **Proportionate liability**

37.2 To the extent permitted by law:

- (a) the operation of Part 4 of the *Civil Liability Act 2002* (NSW) is excluded in relation to rights, obligations and liabilities under, or in connection with, this Deed whether such rights, obligations or liabilities are sought to be enforced as a breach of contract, a claim in tort or otherwise; and
- (b) in accordance with clause 59, this clause 37.2 applies to rights, obligations and liabilities under, or in connection with, this Deed whether they arise in the state of New South Wales or elsewhere in Australia.

Note: Clause 59 provides that the laws of New South Wales apply to this Deed.

## **38. Special rules about Group Respondents**

38.1 If the Provider is a Group Respondent, as specified in the Particulars, the Provider:

- (a) warrants that each of its members have given authority to the member named in the Particulars as the lead member to negotiate, bind and act on each member's behalf in relation to this Deed; and
- (b) must not change its membership specified in the Particulars without the Department's written agreement.

## **Section A4.2 – Changes in persons delivering Services**

### **39. Corporate governance**

39.1 The Provider must inform the Department in writing within five Business Days of any change:

- (a) in its Constitution, structure, management or operations that could reasonably be expected to have an adverse effect on the Provider's ability to comply with its obligations under this Deed; and
- (b) to the membership of its board of Directors, board of management or executive during the Term of this Deed.

#### **Personnel**

39.2 The Provider must not employ, engage or elect any person in a management or financial administration role or, if Notified by the Department, the performance of the Services, if:

- (a) the person is an undischarged bankrupt;
- (b) a composition, deed of arrangement or deed of assignment is in operation with the person's creditors under the law relating to bankruptcy;
- (c) the person is subject to a judgment debt that has not been satisfied;
- (d) subject to Part VIIC of the *Crimes Act 1914* (Cth), the person has been 'convicted' within the meaning of paragraph 85ZM(1) of that Act of an offence under the *Crimes Act 1914* (Cth), or any other offence relating to fraud, unless there is clear evidence that:
  - (i) the conviction is spent under paragraph 85ZM(2) (taking into consideration the application of Division 4 of Part VIIC);
  - (ii) the person was granted a free and absolute pardon because the person was wrongly convicted of the offence; or
  - (iii) the person's conviction for the offence has been quashed,

in accordance with any relevant law;

- (e) the person is or was a Director or a person who occupied an influential position in the management or financial administration of an organisation that failed to comply with the terms of any agreement with the Commonwealth and where that failure gave the Commonwealth the right to terminate the agreement; or
- (f) the person is otherwise prohibited from being a member or Director or employee or responsible officer of the Provider.

#### **Change in Control of the Provider or a Material Subcontractor**

39.3 The Provider must not, without the Department's prior written consent, cause or permit a Change in Control of:

- (a) the Provider; or
- (b) any Material Subcontractor.

### **40. Provider's Personnel**

40.1 The Department may give Notice, on reasonable grounds related to the performance of the Services or risk to the Services or the Commonwealth, requiring the Provider to remove Personnel from the Services.

40.2 If the Department gives a Notice under clause 40.1:

- (a) the Provider must, at its own cost, promptly arrange for the removal of the Personnel from work on the Services and replace them with Personnel acceptable to the Department; and
- (b) if the Provider is unable to provide replacement Personnel acceptable to the Department, the Department may terminate this Deed under clause 48.

### **41. External administration**

41.1 Without limiting any other provisions of this Deed, the Provider must provide the Department, immediately upon receipt or generation by the Provider, a copy of:

- (a) any notice requiring the Provider to show cause why the Provider should not come under any form of external administration referred to in clause 41.1(b);
- (b) any record of a decision of the Provider, notice or orders that the Provider has, or will, come under one of the forms of external administration referred to in:
  - (i) Chapter 5 of the *Corporations Act 2001* (Cth);
  - (ii) the equivalent provisions in the incorporated associations legislation of the Australian states and territories; or
  - (iii) Chapter 11 of the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth);
- (c) any statutory demand within the meaning of sections 459E and 459F of the *Corporations Act 2001* (Cth);
- (d) any proceedings initiated with a view to obtaining an order for the Provider's winding up;
- (e) any decisions and orders of any court or tribunal made against the Provider, or involving the Provider, including an order for the Provider's winding up;
- (f) any notice that a shareholder, member or Director is convening a meeting for the purpose of considering or passing any resolution for the Provider's winding up; or

- (g) being an individual, any notice that the Provider has become bankrupt or has entered into a scheme of arrangement with his or her creditors.

41.2 The Provider must immediately Notify the Department if the Provider:

- (a) has decided to place itself, or has otherwise come under, any one of the forms of external administration referred to in clause 41.1(b); or
- (b) is ceasing to carry on business.

## **42. Subcontracting**

42.1 The Provider must obtain the Department's prior written approval before:

- (a) entering into a Subcontract for the performance of any obligation under this Deed;
- (b) terminating an approved Subcontractor; or
- (c) replacing an approved Subcontractor with another Subcontractor.

42.2 The Subcontractors that the Department has approved at the Deed Commencement Date, and any terms and conditions relating to their use, are identified in item 7 of Schedule 1.

42.3 The Provider must ensure that any Subcontract:

- (a) is in writing;
- (b) reserves a right of termination to take account of the Department's right of termination under clauses 47 and 48 and the Department's right of revocation of approval of a Subcontractor under clause 42.5;
- (c) binds the Subcontractor, with respect to the Department, to all relevant terms and conditions of this Deed including clauses 29, 30, 31, 34, 36, 54 and 60; and
- (d) permits the Department to publically disclose the names of any Subcontractors engaged to perform any of the Provider's obligations under this Deed.

42.4 The Provider must:

- (a) not enter into a Subcontract under this Deed with a Subcontractor named by the Director of the Workplace Gender Equality Agency as an employer currently not complying with the *Workplace Gender Equality Act 2012* (Cth);
- (b) ensure every Subcontractor is aware of all terms and conditions of this Deed relevant to the Subcontractor's part in the provision of the Services; and
- (c) pay its Subcontractors in accordance with the terms of the relevant Subcontract.

42.5 The Department may revoke its approval of a Subcontractor on any reasonable ground by giving Notice to the Provider. On receipt of the Notice, the Provider must:

- (a) at its own cost, promptly cease using that Subcontractor; and
- (b) arrange for its replacement by Personnel, or another Subcontractor approved by the Department.

## **43. Assignment and novation**

43.1 The Provider must not assign any of its rights under this Deed, or enter into an arrangement that will require the novation of this Deed, without the Department's prior written approval.

## **Section A4.3 – Resolving Problems**

### **44. Provider suspension**

- 44.1 Without limiting the Department's rights under this Deed or the law, the Department may suspend:
- (a) Referrals in respect of some or all of the Services, including at some or all Sites;
  - (b) any Payment or part of any Payment;
  - (c) access to the Participation Fund (where the Provider provides Intensive Stream Services); and/or
  - (d) access to all or part of the Department's IT Systems for the Provider or any Personnel, Subcontractor, Third Party IT Vendor, External IT System or other person,
- if the Department is of the opinion that:
- (e) the Provider may be in breach of its obligations under this Deed, and while the Department investigates the matter; or
  - (f) the Provider has outstanding or unacquitted money under any arrangement, whether contractual or statutory, with the Commonwealth.
- 44.2 Despite any action taken by the Department under clause 44.1, the Provider must continue to perform its obligations under this Deed, unless the Department agrees otherwise in writing.

## **45. Remedies**

- 45.1 Without limiting the Department's rights under this Deed or the law, if:
- (a) the Provider fails to rectify a breach, or pattern of breaches, of this Deed as determined and specified by the Department, to the Department's satisfaction within 10 Business Days of receiving a Notice from the Department to do so, or such other period specified by the Department;
  - (b) the Provider fails to fulfil, or is in breach of, any of its obligations under this Deed that are not capable of being rectified, as determined by the Department;
  - (c) the Provider's performance of any of its obligations under this Deed is less than satisfactory to the Department;
  - (d) an event has occurred which would entitle the Department to terminate the Deed in whole or in part under clause 48; or
  - (e) this Deed otherwise provides for the Department to exercise rights under clause 45.2,
- the Department may immediately exercise one or more of the remedies set out in clause 45.2, by providing Notice to the Provider.
- 45.2 The remedies that the Department may exercise are:
- (a) suspending:
    - (i) Referrals in respect of some or all of the Services, including at some or all Sites;
    - (ii) any Payment or part of any Payment;
    - (iii) access to the Participation Fund (where the Provider provides Intensive Stream Services); and/or
    - (iv) access to all or part of the Department's IT Systems for the Provider or any Personnel, Subcontractor, Third Party IT Vendor, External IT System or other person;
  - (b) stopping, or requiring the Provider to stop, any person (including any Personnel, Subcontractor or Third Party IT Vendor) or External IT System from Accessing the Department's IT Systems;

- (c) requiring the Provider to obtain new logon IDs for any Personnel, Subcontractor, Third Party IT Vendor or other person, and if so required, the Provider must promptly obtain such new logons;
- (d) imposing special conditions on:
  - (i) the claiming or making of Payments;
  - (ii) access to the Participation Fund (where the Provider provides Intensive Stream Services); and/or
  - (iii) the management of Records,
 as the Department thinks fit, and the Provider must comply with any such special conditions;
- (e) reducing or not paying specific Payments that would otherwise have been payable under this Deed;
- (f) reducing the total amount of any Payments, permanently or temporarily;
- (g) recovering some or all Payments already made by the Department under this Deed, as a debt;
- (h) imposing additional financial or performance reporting requirements on the Provider;
- (i) reducing Business Share (including to zero in one or more Employment Regions, and by reducing Referrals to the Provider or transferring Participants to another ParentsNext Provider); and
- (j) reducing the scope of this Deed.

45.3 If the Department takes any action under this clause 45:

- (a) where relevant, this Deed is deemed to be varied accordingly; and
- (b) the Provider is not relieved of any of its obligations under this Deed.

45.4 For the avoidance of doubt, any reduction of Business Share, Payments or the scope of this Deed under this clause 45 does not amount to a reduction of scope or termination for which compensation is payable.

## **46. Performance under past Commonwealth agreements**

46.1 Where the Provider was engaged to conduct projects under the ParentsNext Deed 2015-2018 or provide services under any employment services or employment related services agreement in operation within seven years prior to 1 July 2018 between the Provider and the Commonwealth (**'a past Commonwealth agreement'**), and the Department determines that the Provider:

- (a) has failed to fulfil, or was in breach of, any of its obligations under a past Commonwealth agreement; or
- (b) without limiting clause 46.1(a), claimed any payment under a past Commonwealth agreement and the requirements under the past Commonwealth agreement to be entitled to, or to qualify for the payment were not fully or properly satisfied by the Provider,

the Department may by Notice to the Provider:

- (c) exercise one or more of the remedies set out in clause 45.2 of this Deed; or
- (d) terminate this Deed, if the failure, breach, or conduct under clause 46.1(a) or (b) permitted the Commonwealth to terminate the relevant past Commonwealth agreement.

- 46.2 A termination of this Deed under clause 46.1(d) entitles the Department to claim damages from, and exercise any other rights against, the Provider as a result of that termination as if the termination was for a breach of an essential term of the Deed at law.
- 46.3 Any action taken by the Department under this clause 46 does not in any way limit any rights of the Department under a past Commonwealth agreement, under this Deed (including, but not limited to, rights in relation to debts and offsetting under clause 19) or at law.

## **47. Termination or reduction in scope with costs**

- 47.1 The Department may, at any time by Notice to the Provider, terminate this Deed in whole or in part, or reduce the scope of any part, or all of this Deed, without limiting the rights, liabilities, or obligations of either Party accruing before the date on which the termination or reduction takes effect.
- 47.2 If this Deed is terminated in whole or part or reduced in scope under clause 47.1, the Department is only liable for:
- (a) Payments other than Reimbursements as set out in clause 47.3;
  - (b) Reimbursements, as set out in clause 47.4; and
  - (c) subject to clauses 47.6, 47.7 and 47.8, any reasonable, unavoidable costs actually incurred by the Provider and directly attributable to the termination, in whole or in part, or a reduction in scope of this Deed.

### **Payments**

- 47.3 Subject to clause 47.4, where the Department terminates this Deed in whole or in part or reduces the scope of this Deed under clause 47.1:
- (a) the Department will only be liable to make Payments which are properly due to the Provider before the date on which the termination or reduction in scope takes effect;
  - (b) any Payments that would have been Payments in advance will abate according to the extent that they relate to the conduct of the Services after the date on which the termination or reduction in scope takes effect; and
  - (c) the Department will be entitled to recover from the Provider any Payments paid in advance that relate to the conduct of the Services after the date on which the termination or reduction in scope takes effect.

### **Reimbursements**

- 47.4 Where the Department terminates this Deed in whole or in part, or reduces the scope of this Deed, under clause 47.1, the Department will only be liable to make Reimbursements to the extent that relevant monies have been legally committed by the Provider before receipt of the notice of termination, or as otherwise commensurate with any reduction in scope of any part, or all of this Deed.

### **Provider's obligations**

- 47.5 Upon receipt of a Notice of termination or reduction in scope under this clause 47, the Provider must:
- (a) cease or reduce the performance of its obligations under this Deed in accordance with the Notice;
  - (b) not legally commit any further monies in connection with the Services;



- (c) immediately return to the Department any Payments paid in advance, in accordance with clause 47.3(c);
- (d) immediately do everything possible to mitigate all losses, costs, and expenses, arising from the termination or reduction in scope contained in the Notice; and
- (e) continue work on any part of the Services not affected by the Notice.

#### **Limit on compensation**

47.6 The Department's liability to pay any compensation in relation to this clause 47 is subject to the Provider's:

- (a) strict compliance with this clause 47; and
- (b) substantiation of any amounts claimed under clause 47.3.

47.7 The Department will not be liable:

- (a) to pay compensation for loss of prospective profits attributable to a termination or reduction in scope under this clause 47;
- (b) for loss of any benefits that would have been conferred on the Provider had a termination or a reduction in scope made under this clause 47 not occurred; or
- (c) for any amounts that would, in aggregate, exceed the maximum Payments that would have been payable by the Department under this Deed in respect of the relevant Services, but for a termination or a reduction in scope made under this clause 47.

47.8 In addition, in relation to a reduction in scope under this clause 47, the Department will not be liable to pay the Provider, and the Provider agrees that its reasonable costs do not include:

- (a) any amounts owed by the Provider under any contract of employment to any Subcontractors; and
- (b) payment of any liabilities arising from commitments the Provider has made in relation to the conduct of the Services beyond the end of the Financial Year in which the reduction in scope takes place.

47.9 If the Department terminates, or reduces the scope of, this Deed under this clause 47:

- (a) the Department's actions will not constitute a breach of this Deed; and
- (b) the Parties agree that the amounts payable to the Provider under this clause 47, represent a reasonable pre-estimate of any loss that may be incurred by the Provider.

## **48. Termination for default**

48.1 The Department may terminate this Deed in whole or in part, by giving Notice to the Provider, if any of the following events or matters arise:

- (a) the Provider fails to fulfil, or is in breach of, any of its obligations under this Deed that are not capable of being rectified (as determined by the Department);
- (b) the Provider is in breach of any of its obligations under this Deed that are capable of being rectified, and fails to rectify the breach, or pattern of breaches, within 10 Business Days, or such other period specified by the Department, of receiving a Notice from the Department to do so;
- (c) the Provider fails to comply with a statutory demand within the meaning of sections 459E and 459F of the *Corporations Act 2001* (Cth);

- (d) to the extent permitted by law, any event referred to in clause 41 occurs, other than an event under clause 41.1(c);
- (e) the Department becomes aware of any information which indicates that, prior to entering into this Deed, the Provider has, including in any response to the request for tender for this Deed:
  - (i) engaged in misleading or deceptive conduct;
  - (ii) made a statement that is incorrect or incomplete; or
  - (iii) omitted to provide information to the Department, and
 the Department is satisfied that such information may have affected the Department's decision to enter into this Deed or any action taken by the Department under this Deed;
- (f) notice is served on the Provider or proceedings are taken to cancel its incorporation or cancel its registration or to dissolve the Provider as a legal entity; or

Note: For the avoidance of doubt, clause 48.1(f) does not apply where a Provider has transferred its incorporation or registration in accordance with the legislation under which it is incorporated or registered.

- (g) the Department becomes expressly entitled to terminate this Deed under any other provision of this Deed (excluding clause 47) including under any other provision of this Deed which gives the Department the right to terminate under this clause 48.

48.2 Subject to clause 48.3, where the Department terminates this Deed in whole or in part under clause 48.1:

- (a) the Department is liable to pay Payments and entitled to recover Payments as set out in clause 47.3; and
- (b) clauses 47.4 and 47.5 apply as if the Deed were terminated in accordance with clause 47.1.

48.3 Clause 48.1 does not limit or exclude the Department's other rights under this Deed or the law, including the right to recover any other amounts from the Provider on termination of this Deed, the right to reduce (including to zero) payments due on termination on the basis of breach or poor performance, or any rights of offset.

## **Section A4.4 – Other matters**

### **49. Indigenous Procurement Policy**

49.1 The Provider must use reasonable endeavours to increase its:

- (a) purchasing from Indigenous Enterprises; and
  - (b) employment of Aboriginal or Torres Strait Islander persons,
- in the delivery of the Services.

49.2 For the purposes of clause 49.1(a), purchases from Indigenous Enterprises may be in the form of engagement of an Indigenous Enterprise as a Subcontractor, and/or use of Indigenous Enterprises in the Provider's supply chain.

Note 1: The Indigenous Procurement Policy is the Commonwealth policy to stimulate Indigenous entrepreneurship and business development, providing Indigenous Australians with more opportunities to participate in the economy (for further information, see the [Indigenous Procurement Policy, available at https://www.pmc.gov.au/indigenous-affairs/economic-development/indigenous-procurement-policy-ipp](https://www.pmc.gov.au/indigenous-affairs/economic-development/indigenous-procurement-policy-ipp)).

### **50. Aboriginal and Torres Strait Islander peoples**

50.1 The Provider must:

- (a) within three months of the Service Start Date, develop an Aboriginal and Torres Strait Islander employment strategy which is designed to:
    - (i) attract, develop, and retain Aboriginal or Torres Strait Islander persons as employees within the Provider's Own Organisation; and
    - (ii) encourage the procurement of goods and services, as relevant, from Indigenous Enterprises; and
  - (b) implement and maintain that strategy for the Term of this Deed.
- 50.2 The Provider must work in partnership with Jobs, Land and Economy Programme providers, Employers, and community service organisations, on employment related strategies or initiatives to maximise employment of Aboriginal and Torres Strait Islander peoples in local jobs.
- 50.3 The Provider may enter into agreements with relevant Jobs, Land and Economy Programme providers in locations where they are both operating for the purpose of maximising Employment Outcomes for Aboriginal and Torres Strait Islander peoples in relation to specific Jobs, Land and Economy Programme projects.

## **51. Acknowledgement and promotion**

- 51.1 The Provider must, in all publications, and in all promotional, publicity and advertising Materials or activities of any type undertaken by, or on behalf of, the Provider relating to the Services or this Deed:
- (a) comply with any promotion and style guidelines issued by the Department;
  - (b) use badging and signage in accordance with any Guidelines; and
  - (c) acknowledge the financial and other support the Provider has received from the Commonwealth.

## **52. The Department's right to publicise the Services and best practice**

- 52.1 The Department may publicise and report on the Services and the awarding of this Deed to the Provider, including the name of the Provider, the amounts of Fees paid, or expected to be paid to the Provider, and a description of the Services.
- 52.2 Where the Department identifies best practice on the part of the Provider, the Department may disseminate advice of such best practice to any other person, including other ParentsNext Providers.

## **53. Conflict of interest**

- 53.1 The Provider warrants that, to the best of its knowledge and belief after making diligent inquiries, at the Deed Commencement Date, no Conflict exists, or is likely to arise, in the performance of its obligations under this Deed.
- 53.2 The Provider must not enter into or engage in any arrangement, scheme or contract, however described, that may cause a Conflict in the performance of its obligations under this Deed.
- 53.3 If a Conflict arises, or is likely to arise the Provider must:
- (a) immediately Notify the Department of the Conflict and the Provider's proposed steps to resolve the Conflict; and
  - (b) fully disclose all relevant information relating to the Conflict to the Department.
- 53.4 The Department may terminate this Deed under clause 48 if the Provider fails to take action in accordance with this clause 53 or is unable or unwilling to resolve or deal with the Conflict as reasonably required by the Department.

## **54. Negation of employment, agency and subcontract**

- 54.1 The Provider, its Personnel, agents, Subcontractors and Third Party IT Vendors are not, by virtue of this Deed or any Subcontract, deemed to be Department Employees, agents or subcontractors or otherwise able to bind or represent the Commonwealth.
- 54.2 Subject to this Deed, the Provider must not represent itself, and must ensure that its Personnel, agents, Subcontractors and Third Party IT Vendors do not represent themselves, as being Department Employees, agents or subcontractors or as otherwise able to bind or represent the Commonwealth.

## **55. Waiver**

- 55.1 A failure by a Party to exercise (or delay in exercising) any right does not operate as a waiver of that right.
- 55.2 A single or partial exercise by a Party of any right does not prevent the further exercise of that right.
- 55.3 Waiver of any provision of, or right under, this Deed must be in writing signed by the Party entitled to the benefit of that provision or right and is effective only to the extent set out in the written waiver.
- 55.4 In this clause 55, 'rights' means rights provided by this Deed, or at law.

## **56. Severance**

- 56.1 If a court or tribunal says that any provision of this Deed has no effect, or interprets a provision to reduce an obligation or right, this does not invalidate any other provision.

## **57. Entire agreement**

- 57.1 This Deed records the entire agreement between the Parties in relation to its subject matter and supersedes all communications, negotiations, arrangements, and agreements, whether oral or written, between the Parties about the subject matter of this Deed.

## **58. Variation of Deed**

- 58.1 Except for action the Department is expressly authorised to take elsewhere in this Deed, no variation of this Deed is binding unless it is agreed in writing and signed by the Parties.

## **59. Applicable law and jurisdiction**

- 59.1 This Deed is to be construed in accordance with, and any matter related to it is to be governed by, the laws of the State of New South Wales.
- 59.2 Both Parties submit to the non-exclusive jurisdiction of the courts of the State of New South Wales in respect to any dispute under this Deed.

## **60. Compliance with laws and government policies**

- 60.1 The Provider must, in carrying out its obligations under this Deed, comply with:
- (a) all relevant laws and requirements of any Commonwealth, state, territory or local authority, including the WHS Laws, Working with Children Laws and the *Workplace Gender Equality Act 2012* (Cth); and
  - (b) any Commonwealth policies Notified by the Department to the Provider in writing, referred to or made available by the Department to the Provider (including by reference to an internet site), including any listed in this Deed.

### **Workplace Gender Equality Act 2012 (Cth)**

- 60.2 Clauses 60.3 to 60.4 apply only to the extent that the Provider is a 'relevant employer' for the purposes of the *Workplace Gender Equality Act 2012 (Cth)* ('the WGE Act').
- 60.3 The Provider must:
- (a) Notify the Department as soon as practicable if the Provider becomes non-compliant with the WGE Act during the Term of this Deed; and
  - (b) provide a current letter of compliance issued to the Provider by the Commonwealth Workplace Gender Equality Agency within 18 months from the Service Start Date, and following this, annually, to the Department.
- 60.4 Compliance with the WGE Act does not relieve the Provider from its responsibility to comply with its other obligations under this Deed.

### **Work health and safety**

- 60.5 The Provider must at all times:
- (a) ensure that the Services are carried out in a safe manner;
  - (b) comply with any directions issued by any person having authority under the WHS Laws to do so;
  - (c) if the Provider is required by the WHS Act to report a Notifiable Incident to the Regulator arising out of the Services:
    - (i) at the same time, or as soon as is possible in the circumstances, give Notice of such incident, and a copy of any written notice provided to the Regulator, to the Department; and
    - (ii) provide to the Department a Report detailing the circumstances of the incident, the results of investigations into its cause, and any recommendations or strategies for prevention in the future;
  - (d) within 24 hours of becoming aware of such circumstances, inform the Department of the full details of:
    - (i) any suspected or actual contravention of the WHS Laws relating to the Services;
    - (ii) any workplace entry by a WHS Entry Permit Holder, or an inspector appointed under the WHS Act, to any place where the Services are being performed or undertaken;
    - (iii) any proceedings against the Provider, or any decision or request by the Regulator given to the Provider, under the WHS Laws; and
    - (iv) any cessation or direction to cease work relating to the Services, due to unsafe work, immediately upon the Provider being informed of any such cessation or direction; and
  - (e) provide the Department with copies of all notices and correspondence issued to the Provider by any person under the WHS Laws, within 24 hours of receiving any such notice or correspondence.
- 60.6 The Provider must cooperate with any investigation undertaken by the Department concerning any Notifiable Incident, or breach or alleged breach of the WHS Laws, or any audit of the Provider's work health and safety performance, arising out of, or in respect of, the Services.

## **61. Notices**

- 61.1 A Party giving Notice under this Deed must do so in writing by email, hand delivery or pre-paid post to the address of the Account Manager or the Contact Person, as relevant.
- 61.2 A Notice given in accordance with clause 61.1 is taken to be received:
- (a) if sent by email, upon actual receipt by the addressee;
  - (b) if hand delivered, on delivery; or
  - (c) if sent by pre-paid post, 5 Business Days after the date of posting, unless it has been received earlier.
- 61.3 For the purposes of this clause 61, the Account Manager's and the Contact Person's address is as specified in items 1 and 2 of Schedule 1.

# ANNEXURE A1 – DEFINITIONS

## Social Security Law definitions

The terms **‘Income Support Payment’**, **‘Mutual Obligation Failure’**, **‘Reasonable Excuse’**, and **‘Reconnection Requirement’** have the meanings given to them, respectively and in their decapitalised form, in the *Social Security Act 1991* (Cth) or the *Social Security (Administration) Act 1999* (Cth) (as relevant).

The term **‘Demerit’** has the meaning given to it, and in its decapitalised form, in an instrument made under section 42AR of the *Social Security (Administration) Act 1999* (Cth) dealing with Mutual Obligation Failures.

## General definitions

**‘12 Week Period’** means, for Employment that satisfies the Outcome Description of an Employment Outcome, a period of 12 Consecutive Weeks that:

- (a) starts from the relevant Outcome Start Date; and
- (b) does not overlap with the Outcome Period for any other Outcome that has been claimed in relation to the relevant Participant by any ParentsNext Provider, except as otherwise provided in any Guidelines.

**‘ABN’** has the same meaning as it has in section 41 of the *A New Tax System (Australian Business Number) Act 1999* (Cth).

**‘Aboriginal or Torres Strait Islander person’** means a person who:

- (a) is identified as such on the Department’s IT Systems; or
- (b) is of Aboriginal and/or Torres Strait Islander descent;
- (c) identifies as an Aboriginal and/or Torres Strait Islander person; and
- (d) is accepted as such in the community in which the person lives or has lived.

**‘Acceptable Reason’** means that a Compulsory Participant:

- (a) has notified the Provider, before the start time scheduled for a Mutual Obligation Requirement, that the Participant is unable to satisfy the Mutual Obligation Requirement; and
- (b) the Provider is satisfied that the Participant has a Valid Reason for being unable to satisfy the Mutual Obligation Requirement.

**‘Access’** includes access or facilitation of access (whether directly or indirectly), traverse, view, use, or interface with, Records or the Department’s IT Systems.

**‘Account Manager’** means the person for the time being holding, occupying or performing the duties of the position specified in item 1 of Schedule 1, who has authority to receive and sign Notices and written communications for the Department under this Deed.

**‘Activity’** means an activity approved for ParentsNext by the Department and specified in Section B3.2 and any Guidelines.

**‘Activity Host Organisation’** means an organisation that hosts an Activity, but does not include:

- (a) a Launch into Work Organisation in relation to its delivery of a Launch into Work Placement; or
- (b) a RET Grant Recipient in relation to its delivery of a RET Activity.

Note: For the avoidance of doubt, where applicable, an Activity Host Organisation could include a Related Entity or the Provider.

**‘Activity Host Organisation Agreement’** means a written and signed agreement between the Provider and an Activity Host Organisation in relation to the provision of Activities, in accordance with any Guidelines.

**‘Actual Caseload’** means the number of Participants who have Commenced, are not Suspended and are on the Provider’s caseload at the start of each relevant Six Month Period.

**‘Adjustment Note’** has the meaning given in section 195-1 of the GST Act.

**‘Advance Payment Percentage’** means the percentage set out in Table 2B in Annexure B1 for the relevant Expected Caseload or Actual Caseload.

**‘Ancillary Payment’** means a payment which the Department may at its absolute discretion pay the Provider subject to the Provider satisfying any applicable terms and conditions relating to the Ancillary Payment, including those specified in any Guidelines, where relevant.

**‘Annexure’** means an annexure to this Deed.

**‘Appointment’** means a date and time for a Contact recorded in the Electronic Calendar.

**‘Australian Equivalents to International Financial Reporting Standards’** or **‘AEIFRS’** refers to the standards of that name maintained by the Australian Accounting Standards Board created by section 261 of the *Australian Securities and Investments Commission Act 2001* (Cth).

**‘Australian Information Commissioner’** means the person appointed to the position of that name and responsible for the administration of the Privacy Act under relevant legislation.

**‘Authorised Officer’** means a person who is an ‘authorised officer’ as defined under the *Public Interest Disclosure Act 2013* (Cth).

**‘Broker’** means to acquire Activities from an Activity Host Organisation or a Supervisor, without the payment of money, and in accordance with any Guidelines.

**‘Business Day’** means in relation to the doing of any action in a place, any day other than a Saturday, Sunday or public holiday in that place.

**‘Business Share’** means the proportion of Compulsory Participants for each Employment Region specified in item 6.2 of Schedule 1.

**‘Capability Assessment’** means an assessment by Services Australia to ensure that the Mutual Obligation Requirements specified in the Participant’s Participation Plan are appropriate to their circumstances and the Participant is capable of meeting them.

**‘Capability Interview’** means a contact between:

- (a) the Provider and a Compulsory Participant;
- (b) another ParentsNext Provider and a ParentsNext participant; or
- (c) an Other Program Provider and an Other Program participant,

to ensure that the Mutual Obligation Requirements specified in the participant’s Participation Plan or other employment pathway plan under the *Social Security Act 1991* (Cth) are appropriate to their circumstances and the participant is capable of meeting them.

**‘Capability Management Tool’** means the tool used by Providers to review a Compulsory Participant’s barriers and vulnerability indicators, and to recommend interventions and services.

**‘Change in Control’** means:

- (a) subject to paragraph (b) below, in relation to a Corporation, a change in any of the following:
  - (i) Control of more than one half of the voting rights attaching to shares in the Corporation, whether due to one or a series of transactions occurring together or on different occasions;



- (ii) Control of more than one half of the issued share capital of the Corporation, whether due to one or a series of transactions occurring together or on different occasions, excluding any part of the issued share capital which carries no right to participate beyond receipt of an amount in the distribution of either profit or capital; or
  - (iii) Control of more than one half of the voting rights attaching to membership of the Corporation, where the Corporation does not have any shareholders;
- (b) in relation to a Corporation which is owned or controlled by a trustee company, any change as set out in paragraph (a) above in relation to either that Corporation or its corporate trustee;
- (c) in relation to a partnership:
- (i) the sale or winding up or dissolution of the business by the partners;
  - (ii) a change in any of the partners; or
  - (iii) the retirement, death, removal or resignation of any of the partners;
- (d) in relation to an Exempt Public Authority, a change in relation to any of the following:
- (i) the composition of the board of Directors;
  - (ii) ownership of any shareholding in any share capital; or
  - (iii) the enabling legislation so far as it affects Control, if any; or
- (e) in relation to a Group Respondent:
- (i) any change in the membership of the Group Respondent;
  - (ii) a change of the lead member of the Group Respondent, if the Group Respondent has appointed a lead member for the purposes of this Deed; or
  - (iii) a Change in Control as defined in paragraphs (a) to (d) above in any member of the Group Respondent.

‘**Child**’ means a person under the age of 18 years, and ‘**Children**’ has a corresponding meaning.

‘**Claims Processing Training**’ means the online training provided by the Department for Providers in relation to the processing of claims for Payment.

‘**Commence**’ means, in relation to a Participant, having their completion of an Initial Interview recorded on the Department’s IT Systems by the Provider, and ‘**Commenced**’ has an equivalent meaning.

‘**Commencement**’ means, in relation to a Participant, the time at which the Participant Commences.

‘**Commonwealth**’ means the Commonwealth of Australia and includes officers, delegates, employees and agents of the Commonwealth of Australia.

‘**Commonwealth Coat of Arms**’ means the Commonwealth Coat of Arms as set out at: [Use of the Commonwealth Coat of Arms General Guidelines \(https://www.pmc.gov.au/government/commonwealth-coat-arms\)](https://www.pmc.gov.au/government/commonwealth-coat-arms).

‘**Commonwealth Material**’ means any Material provided by the Department to the Provider for the purposes of this Deed and Material which is copied or derived from Material so provided, and includes Commonwealth Records.

‘**Commonwealth Records**’ means any Records provided by the Department to the Provider for the purposes of this Deed, and includes Records which are copied or derived from Records so provided.

‘**Competent Person**’ means a person who has acquired through training, qualification or experience the knowledge and skills to carry out specific work health and safety tasks, and as otherwise specified in any Guidelines.

‘**Complaint**’ means any expression of dissatisfaction with the Provider’s policies, procedures, employees or the quality of the Services the Provider offers or provides, but does not include:

- (a) a request by a Participant or potential Participant for Services, unless it is a second or further request;
- (b) a request for information or for an explanation of a policy or procedures; or

(c) the lodging of any appeal against a decision when this is a normal part of standard procedure or policy.

**'Complementary Service'** means an employment or training program administered by the Commonwealth, including the Department, or provided by a state or territory government (including by state or territory government funded providers), as advised by the Department, which the Provider may access to provide additional specialised assistance to a Participant.

**'Completion Date'** means either:

- (a) the day after the latest of the following:
  - (i) the Service Period end date; or
  - (ii) the Extended Service Period end date; or
- (b) if this Deed is terminated before any of the days specified in paragraph (a), the day after the day on which this Deed is terminated.

**'Compulsory Activity'** means a compulsory activity included in a Compulsory Participant's Participation Plan.

**'Compulsory Participant'** means a person who:

- (a) is identified on the Department's IT Systems as a 'compulsory participant'; and
- (b) has been Referred to the Provider.

**'Condition of Offer'** means a condition placed by the Department on its offer of this Deed to the Provider.

**'Confidential Information'** means all information that the Parties agree to treat as confidential by Notice to each other after the Deed Commencement Date; or that the Parties know, or ought reasonably to know, is confidential to each other.

**'Conflict'** refers to a conflict of interest, or risk of a conflict of interest, or an apparent conflict of interest arising through the Provider engaging in any activity or obtaining any interest that may interfere with or restrict the Provider in performing the Services to the Department fairly and independently.

**'Consecutive Weeks'** means a continuous period of weeks broken only by one or more Permissible Breaks, and as adjusted by Services Australia.

**'Constitution'** means (depending on the context):

- (a) a company's constitution, which (where relevant) includes rules and any amendments that are part of the company's constitution; or
- (b) in relation to any other kind of body:
  - (i) the body's charter, rules or memorandum; or
  - (ii) any instrument or law constituting or defining the constitution of the body or governing the activities of the body or its members.

**'Contact'** means a contact between the Provider and a Participant in accordance with clause 72.

**'Contact Person'** means the person specified in item 2 of Schedule 1 who has authority to receive and sign Notices and written communications for the Provider under this Deed and accept any request or direction in relation to the Services.

**'Control'** has the meaning given to that term in section 50AA of the *Corporations Act 2001* (Cth).

**'Corporation'** has the meaning given to that term in section 57A of the *Corporations Act 2001* (Cth).

**'Customer'** includes a Participant, potential Participant, Employer and any other user of the Services.

**'Cybersafety Policy'** means the Department's policy of that name as specified at clauses 27.20 to 27.23.

**‘Deed’** means this document, as varied or extended by the Parties from time to time in accordance with this Deed, and includes any Conditions of Offer, the Particulars, all Annexures, the Schedule, any Guidelines and any documents incorporated by reference.

**‘Deed Commencement Date’** means the earlier of 1 July 2018, or the date on which this Deed is signed by the last Party to do so.

**‘Deed Material’** means all Material:

- (a) developed or created or required to be developed or created as part of or for the purpose of performing this Deed;
- (b) incorporated in, supplied or required to be supplied along with the Material referred to in paragraph (a) above; or
- (c) copied or derived from Material referred to in paragraphs (a) or (b); and

includes all Deed Records.

**‘Deed Records’** means all Records:

- (a) developed or created or required to be developed or created as part of or for the purpose of performing this Deed;
- (b) incorporated in, supplied or required to be supplied along with the Records referred to in paragraph (a) above; or
- (c) copied or derived from Records referred to in paragraphs (a) or (b); and

includes all Reports.

**‘Delegate’** means a person engaged by the Provider, who is a delegate of the Secretary of the Department under the Social Security Law.

**‘Department’** means the Commonwealth Department of Employment, Skills, Small and Family Business or such other agency or department as may administer this Deed on behalf of the Commonwealth from time to time, and where the context so admits, includes the Commonwealth’s relevant officers, delegates, employees and agents.

**‘Department Employee’** means an employee of the Commonwealth working for the Department and:

- (a) any person notified by the Department to the Provider as being a Department Employee; and
- (b) any person authorised by law to undertake acts on behalf of the Department.

**‘Department’s IT Systems’** means the Department’s IT computer system accessible by a Provider, delivered as web-browser applications optimised for Internet Explorer 11, and through which information is exchanged between the Provider, Subcontractors, Services Australia and the Department in relation to the Services.

**‘Department’s National Customer Service Line’** means a free call telephone service which puts Participants and Employers in contact with a Department Customer Service Officer, and is 1800 805 260, or such other number as Notified by the Department.

**‘Department’s Security Policies’** means policies relating to the use and security of the Department’s IT Systems and Records, and includes the policy by the name of the Department’s External Security Policy - For Contracted Service Providers and Users and any other security policies Notified by the Department. Relevant policies are available on the Department’s IT Systems through the following path: Provider Portal > ParentsNext> Provider Operations > IT Security & Access, or at such other location as advised by the Department.

**‘Disability Employment Services’** or **‘DES’** means the Commonwealth service of that name (or such other name as advised by the Department), administered by the Department of Social Services.

**‘Disability Employment Services Provider’** or **‘DES Provider’** means any entity contracted to the Commonwealth to deliver Disability Employment Services.

**‘Direct Registration’** or **‘Directly Register’** means Registration by the Provider of a person as an Intensive Stream Volunteer (where the Provider provides Intensive Stream Services) who is not Referred to the Provider, in accordance with clause 102 and any Guidelines.

**‘Director’** means any of the following:

- (a) a person appointed to the position of a director or alternate director, and acting in that capacity, of a body corporate within the meaning of the *Corporations Act 2001* (Cth) regardless of the name given to their position;
- (b) a member of the governing committee of an Aboriginal and Torres Strait Islander corporation under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth);
- (c) a member of the committee of an organisation incorporated pursuant to state or territory laws relating to the incorporation of associations;
- (d) a person who would be a director of the body corporate under paragraph (a) above if the body corporate were a body corporate within the meaning of the *Corporations Act 2001* (Cth);
- (e) a person who acts in the position of a director of a body corporate;
- (f) a person whose instructions or wishes the directors of a body corporate are accustomed to acting upon, and not simply because of the person’s professional capacity or business relationship with the directors or the body corporate; or
- (g) a member of the board, committee or group of persons (however described) that is responsible for managing or overseeing the affairs of the body corporate.

**‘Documentary Evidence’** means those Records of the Provider, including any Records held in any External IT System, as specified in this Deed including in any Guidelines, which evidence that Services were provided by the Provider as required under this Deed and/or that the Provider is entitled to a Payment.

**‘Early School Leaver’** means a person who falls within the meaning given to the term ‘early school leaver’ by the *Social Security Act 1991* (Cth) and who has early school leaver participation requirements under the Social Security Law.

**‘Education’** means any education activity unless otherwise advised by the Department.

**‘Education Outcome’** means an outcome as specified in row 2, 3 or 4 of Table 1 in Annexure C1.

**‘Effective Exit’** means the automatic removal of a Participant from the Department’s IT Systems as being eligible to participate in ParentsNext.

**‘Electronic Calendar’** means the electronic calendar in the Department’s IT Systems used by the Provider for managing, and/or setting dates and times for:

- (a) Referrals;
- (b) Engagements; and
- (c) referrals by the Provider to other employment services, including to Other Programs.

**‘Eligibility Criteria’** means the eligibility criteria for ParentsNext as specified in any Guidelines.

**‘Employer’** means an entity that has the legal capacity to enter into a contract of employment with a Participant.

**‘Employment’** or **‘Employed’** means the status of a person who is in paid work under a contract of employment or who is otherwise deemed to be an employee under relevant Australian legislation.

**‘Employment Outcome’** means an outcome as specified in row 1 of Table 1 in Annexure C1.

**‘Employment Region’** means a geographical area identified as an Employment Region and displayed at <https://sharedservices.carto.com/u/ssc/builder/cbe4cb20-db98-4c2b-9271-34695a5b9848/embed>, as varied by the Department at the Department’s absolute discretion.

**'Employment Services Tip off Line'** means a telephone and email service, developed primarily for current and former employees of jobactive Providers and NEST Providers who suspect, or have evidence of incorrect claims or acceptance of Payments, or any other activities that may be a breach of the Deed that jobactive Providers and NEST Providers have signed with the Department, and which allows those persons to report their concerns to the Department.

**'Employment Systems Help Desk'** means the Department's centralised point of IT support for employment service providers in relation to the Department's IT Systems.

**'Engagement'** means an engagement that is recorded in the Electronic Calendar in accordance with clause 71.2.

**'Enterprise Agreement'** has the same meaning given to it under the *Fair Work Act 2009*.

**'Exceptional Circumstances'** means circumstances beyond the control of the Provider and/or a Participant and includes:

- (a) where the Participant resides in:
  - (i) an area which is affected by extreme weather conditions (if agreed to by the Department);
  - (ii) an area affected by a natural disaster; or
  - (iii) an area affected by public transport strikes;
- (b) when a Participant is participating in full-time Education and their participation in those activities restricts their availability to participate in an Initial Interview; or
- (c) other circumstances specified in any Guidelines or advised by the Department.

**'Excluded Referral'** means a referral by the Provider to:

- (a) a PaTH Internship;
- (b) Work for the Dole; or
- (c) any other activity specified in any Guidelines or advised by the Department.

**'Exempt Public Authority'** has the meaning given to that term in section 9 of the *Corporations Act 2001* (Cth).

**'Exemption'** means, in relation to a Compulsory Participant, a participation exemption covering the Compulsory Participant under Division 3A of Part 2.10 of the *Social Security Act 1991* (Cth).

**'Existing Material'** means all Material, except Commonwealth Material, in existence prior to the Deed Commencement Date:

- (a) incorporated in;
  - (b) supplied with, or as part of; or
  - (c) required to be supplied with, or as part of,
- the Deed Material.

**'Exit'** means an exit of a Participant from the Services in accordance with clause 80 and **'Exited'** has an equivalent meaning.

**'Expected Caseload'** means the Department's estimate of the number of Participants who will Commence in the first Six Month Period based on the Business Share.

**'Extended Service Period'** means the period of time from the end of the Service Period.

**'External IT System'** means any information technology system or service, other than the Department's IT Systems, used by the Provider or any Subcontractor in association with the delivery of the Services or to Access the Department's IT Systems. 'External IT System' includes a Provider IT System and any Third Party IT.

**'External Systems Assurance Framework'** or **'ESAF'** means the framework of mechanisms used by the Department to get assurance over External IT Systems and includes requirements in relation to Provider IT System accreditation and

Third Party IT accreditation and associated timeframes, standards and guidelines and is available on the Department's IT Systems or at such other location as advised by the Department from time to time.

**'Fees'** means any amounts payable by the Department under this Deed specified to be Fees and any amounts not expressly identified as a Reimbursement or an Ancillary Payment.

**'Financial Year'** means a period from 1 July in one year to 30 June in the following year.

**'Full-Time'** means for a Site, Monday to Friday from 9am to 5pm daily on Business Days, or as otherwise agreed with the Department.

**'Group Respondent'** means a group of two or more entities, however constituted, other than a partnership, which have entered into an arrangement for the purposes of jointly delivering the Services, and which may have appointed a lead member of the group with authority to act on behalf of all members of the group for the purposes of this Deed, as specified in the Particulars.

**'GST'** has the meaning as given in section 195-1 of the GST Act.

**'GST Act'** means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

**'Guide to Social Security Law'** means the guidelines published by the Department of Social Services, as amended and [available at the following website: http://guides.dss.gov.au/guide-social-security-law](http://guides.dss.gov.au/guide-social-security-law).

**'Guidelines'** refers to the guidelines, if any, as described in this Deed and issued by the Department, as amended by the Department.

**'Indigenous Enterprise'** means an organisation that is 50 per cent or more owned by Aboriginal or Torres Strait Islander persons and is operating as a business.

**'Initial Interview'** means an initial Contact between the Provider and a Participant in accordance with clause 74.

**'Initial Period'** means, in relation to a Participant, a period of 20 Business Days from their Commencement.

**'Input Tax Credit'** has the meaning given in section 195-1 of the GST Act.

**'Intellectual Property Rights'** includes:

- (a) all copyright (including rights in relation to phonograms and broadcasts);
- (b) all rights in relation to inventions (including patent rights), plant varieties, trademarks (including service marks), designs, circuit layouts; and
- (c) all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields,

but does not include:

- (d) Moral Rights;
- (e) the non-proprietary rights of performers; or
- (f) rights in relation to confidential information.

**'Intensive Stream Location'** means a Location that the Provider is contracted to provide Intensive Stream Services as specified in item 6.3 of Schedule 1.

**'Intensive Stream Participant'** means any:

- (a) Participant, including any Intensive Stream Volunteer, who resides in an Intensive Stream Location; or
- (b) Intensive Stream Volunteer who does not reside in an Intensive Stream Location.

**'Intensive Stream Services'** means the Services set out in Part C.

**'Intensive Stream Volunteer'** means any person who:

- (a) is Directly Registered in accordance with clause 102; or
- (b) is Referred to the Provider by Services Australia and identified on the Department's IT Systems as an Intensive Stream Volunteer.

**'Interest'** means interest calculated at a rate determined by the Department that will be no higher than the 90 day bank-accepted bill rate (available from the Reserve Bank of Australia) less 10 basis points.

**'jobactive'** means the Commonwealth service of that name (or such other name as advised by the Department), administered by the Department.

**'jobactive Provider'** means any entity contracted to the Commonwealth to provide jobactive services.

**'Job Seeker Classification Instrument'** or **'JSCI'** means the tool used by Services Australia and Providers to measure a Participant's relative level of disadvantage based on the expected difficulty in finding the Participant Employment because of the Participant's personal circumstances and labour market skills.

**'Jobs, Land and Economy Programme'** means the Commonwealth program administered by the Department of Prime Minister and Cabinet which aims to get adult Aboriginal or Torres Strait Islander persons into work, foster viable indigenous businesses and assist Aboriginal or Torres Strait Islander persons to generate economic and social benefits from land and sea use and native title rights.

**'Joint Charter of Deed Management'** means the charter at Annexure A2 which embodies the commitment by the Department and employment services providers to work cooperatively to achieve shared goals and outcomes in the delivery of employment services.

**'Key Performance Indicators'** or **'KPIs'** means the indicators specified in clauses 82.1, 82.2 and 82.3 or as Notified by the Department.

**'Launch into Work'** means the Commonwealth program of that name designed to provide suitable Participants with training, mentoring and short-term, unpaid work experience in order to prepare Participants for Employment.

**'Launch into Work Organisation'** means an organisation that hosts a Launch into Work Placement.

**'Launch into Work Placement'** means a placement of a Participant into a Launch into Work activity, arranged in accordance with clause 92 and any Guidelines.

**'Location'** means a geographical area:

- (a) identified and displayed at <https://sharedservices.carto.com/u/ssc/builder/cbe4cb20-db98-4c2b-9271-34695a5b9848/embed>, as varied by the Department at the Department's absolute discretion;
- (b) that is within an Employment Region specified in item 6.1 of Schedule 1; and
- (c) that the Provider is contracted to service under this Deed, as specified in item 6.3 of Schedule 1.

**'Malicious Code'** means any software that attempts to subvert the confidentiality, integrity or availability of a system.

**'Material'** includes equipment, software (including source code and object code), goods, and Records stored by any means including all copies and extracts of the same.

**'Material Subcontractor'** means any Subcontractor of the Provider subcontracted to perform a substantial part (as determined by the Department) of the Services.

**'Modern Award'** means a modern award made under Part 2-3 of the *Fair Work Act 2009*.

**'Moral Rights'** has the meaning given to the term 'moral rights' by the *Copyright Act 1968* (Cth).

**'Mutual Obligation Requirement'** means the activity test, participation requirements or other requirements that a Compulsory Participant, other ParentsNext participant or Other Program participant must meet in order to receive an Income Support Payment, including a requirement that, if not complied with, would be a:

- (a) Mutual Obligation Failure; or
- (b) failure to meet a Reconnection Requirement,  
under the Social Security Law.

**‘National Minimum Wage’** means the national minimum wage as set in a national minimum wage order made under Part 2-6 of the *Fair Work Act 2009*.

**‘New Employment Services’** or **‘NES’** means the Australian Government’s new model of employment services.

**‘New Employment Services Trial’** or **‘NEST’** means the trial, administered by the Department, that will test key aspects of the New Employment Services.

**‘New Employment Services Trial Deed’** or **‘NEST Deed’** means the New Employment Services Trial Deed 2019-2022.

**‘New Employment Services Trial Provider’** or **‘NEST Provider’** means an entity that is a party to a NEST Deed with the Department.

**‘NEIS Provider’** means any entity that is contracted by the Commonwealth to provide NEIS Services under Part C of the under the jobactive Deed 2015-2022.

**‘Non-Payable Outcome’** means one or more of the following:

- (a) Employment, including a retail position, involving nudity or in the sex industry;
- (b) volunteer work;
- (c) Activities;
- (d) unpaid work;
- (e) a training course not eligible for Austudy, Abstudy, or Youth Allowance (Student);
- (f) a training course delivered by a training institution that is not approved to deliver the respective training course as specified on the [Department of Education and Training’s National Register on Vocational Education and Training website \(http://training.gov.au\)](http://training.gov.au);
- (g) a training course duplicating, or having significant components similar to, employment services, such as training for work preparation or job search skills;
- (h) a job that involves taking up employment in another country, regardless of whether the salary is paid in Australian Dollars or by an Australian company;
- (i) a job involving illegal activity;
- (j) a job involving income or funds from gambling deemed to be inappropriate by the Department;
- (k) Employment that started before the Commencement of the relevant Participant;
- (l) a program, including a Work Trial program, funded by the Australian Government, or a state or territory government, including a Complementary Service and as advised by the Department;
- (m) non-ongoing Employment or a Work Trial where the Participant’s wages are subsidised by the Provider’s own funds and the Provider subsequently seeks Reimbursement of the subsidy from the Participation Fund;
- (n) Employment that contravenes Commonwealth, state or territory legislation or provides terms and conditions of employment which are inconsistent with the relevant workplace relations laws, or any instrument made under such laws, excluding where the Employment has not been paid in accordance with any applicable Enterprise Agreement, Modern Award or the National Minimum Wage;
- (o) Employment that pays a commission as either the entire remuneration or part of the remuneration, except where the commission being paid to the Participant is in addition to an amount which is paid to the Participant in accordance with any applicable Commonwealth, state or territory legislation and any applicable Modern Award or the National Minimum Wage;
- (p) Employment or Unsubsidised Self-Employment which is Recurring; or



(q) any other situation that the Department may advise or as specified in any Guidelines.

**'Non-vocational Barriers'** means the range of barriers that can prevent a person from obtaining and sustaining Employment or Education or from undertaking further skills development, including lack of confidence, homelessness, mental illness, drug or alcohol addiction, sexual abuse or violence and physical or mental abuse.

**'Notice'** means a written notice in accordance with clause 61 and 'Notify' has an equivalent meaning.

**'Notifiable Incident'** has the meaning given in the WHS Act.

**'Objectives of ParentsNext'** means the Objectives of ParentsNext referred to in clause 4.2.

**'Other Program'** means:

- (a) jobactive; or
- (b) Disability Employment Services.

**'Other Program Provider'** means a:

- (a) jobactive Provider; or
- (b) Disability Employment Services Provider.

**'Outcome'** means an Employment Outcome or an Education Outcome.

**'Outcome Completion Date'** means the completion date for an Outcome as specified in Column C of Table 1 in Annexure C1.

**'Outcome Description'** means the description of an Outcome as specified in Column D of Table 1 in Annexure C1.

**'Outcome Payment'** means a Fee for an Employment Outcome or an Education Outcome as set out in Table 2 in Annexure C1.

**'Outcome Period'** means the period from the relevant Outcome Start Date to the relevant Outcome Completion Date (inclusive) for an Outcome.

**'Outcome Start Date'** means the start date for an Outcome as specified in Column B of Table 1 in Annexure C1.

**'Outreach'** means, for a Site, a regular presence other than Part-Time or Full-Time - for example, on a monthly, seasonal or 'as the need arises' basis.

**'Own Organisation'** means the Provider or that part of the Provider that delivers Services under this Deed.

**'Paid Induction Period'** is a period before the start of continuous Employment of a Participant where the Participant undergoes associated job training supported by the Employer and where the Employer remunerates the Participant in compliance with all applicable legislation.

**'ParentsNext'** means the Commonwealth program of that name (or such other name as advised by the Department from time to time), administered by the Department.

**'ParentsNext Provider'** means any entity contracted by the Commonwealth to provide ParentsNext Services under the ParentsNext Deed 2018-2021.

**'ParentsNext Services'** means services provided under the ParentsNext Deed 2018-2021.

**'Part-Time'** means, for a Site, set weekly hours on Business Days with hours of operation less than Full-Time, as agreed with the Department.

**'Participant'** means any Compulsory Participant, Voluntary Participant or Intensive Stream Volunteer (where the Provider provides Intensive Stream Services).

**‘Participant Services Records’** means Deed Records (including documents associated with the Customer feedback register) about a Participant, that are directly created for the purposes of providing Services.

**‘Participation Fund’** means a flexible pool of funds held by the Department, and which is nominally credited to the Provider at the Site level.

**‘Participation Plan’** means the plan described in clause 75, and which includes an employment pathway plan under the *Social Security Act 1991* (Cth), or, if the *Social Security Act 1991* (Cth) is amended, any other such plans.

**‘Particulars’** means the document of that name in which the Parties execute this Deed.

**‘Party’** means a party to this Deed.

**‘Payments’** means the Fees, Reimbursements and Ancillary Payments payable under this Deed.

**‘Payment Period’** means the period that:

- (a) starts on the day on which a Participant is first Commenced; and
- (b) runs continuously until the Participant Exits, except where:
  - (i) the Participant is Suspended (in which case the Payment Period operates in accordance with clause 77.1); or
  - (ii) the Participant’s Payment Period continues after the Participant returns to the Services in accordance with clause 80.3(a)(iii).

**‘Pay Slip Verified Outcome Payment’** means an Outcome Payment for an Employment Outcome that is verified by a pay slip, payroll summary or other evidence in accordance with any Guidelines.

**‘Period of Registration’** means the period of continuous registration of a Participant on the Provider’s caseload, beginning on their Commencement and ending when they are transferred from the Provider in accordance with this Deed or Exited (except where the Participant’s Period of Registration continues after the Participant returns to the Services in accordance with clause 80.3(a)(ii)), but which is halted when the Participant is Suspended and is recommenced when the Participant’s Suspension ends in accordance with clause 77.

**‘Period of Service’** means a period:

- (a) which begins as specified in the Department’s IT Systems;
- (b) which halts when the Participant is Suspended and recommences when the Suspension ends;
- (c) which ends when the Participant is Exited, except where the Participant’s Period of Service continues after the Participant returns to the Services in accordance with clause 80.3(a)(i); and
- (d) during which the Provider must provide the Services to the Participant.

**‘Period of Unemployment’** means the period which commences on the date on which a Participant registers with Services Australia or directly with the Provider as unemployed, and concludes in accordance with clause 79.1 (except where the Participant’s Period of Unemployment continues after the Participant returns to the Services in accordance with clause 80.3A).

**‘Permissible Break’** means, where a Participant is working towards an Employment Outcome, a period of time during which a Participant has a break in Employment caused by a situation which is outside the control of the Participant or the Provider and which satisfies the requirements specified in any Guidelines.

**‘Personal Event’** means a Participant’s personal event that has been recorded in their Electronic Calendar.

**‘Personal Event Time’** means the time that a Personal Event is scheduled to occur.

**‘Personal Information’** has the same meaning as under section 6 of the Privacy Act which currently is information or an opinion about an identified individual, or an individual who is reasonably identifiable:

- (a) whether the information or opinion is true or not; and
- (b) whether the information or opinion is recorded in a material form or not.

**'Personnel'** means:

- (a) in relation to the Provider, any natural person who is an officer, employee, volunteer or professional advisor of the Provider; and
- (b) in relation to any other entity, any natural person who is an officer, employee, volunteer or professional advisor of the entity.

**'Placement'** means a Vacancy or a position in an apprenticeship or a traineeship, that is recorded or lodged in the Department's IT Systems by the Provider as being occupied by the Participant in accordance with this Deed.

**'Placement Start Date'** means:

- (a) unless paragraph (b) below applies, the date on which the Participant first commences in a Placement;
- (b) if the Placement includes an initial Paid Induction Period, either:
  - (i) the day on which the Participant first commences in the Placement; or
  - (ii) the first day of continuous Employment following the Paid Induction Period,

whichever the Provider selects.

**'Pre-existing Employment'** means a position in Employment, Unsubsidised Self Employment, an apprenticeship or traineeship occupied by the Participant prior to them receiving ParentsNext Services from any ParentsNext Provider.

**'Privacy Act'** refers to the *Privacy Act 1988* (Cth).

**'Privacy Form'** means a copy of the privacy consent form specified in the Guidelines.

**'Program Assurance Activities'** means any activities to assist the Department in determining whether the Provider is meeting its obligations under the Deed.

**'Protected Information'** has the same meaning as under section 23 of the *Social Security Act 1991*.

**'Provider'** means the provider contracted under this Deed, and includes its Personnel, successors and assigns, and any constituent entities of the Provider's organisation, and includes reference to a Group Respondent contracted under this Deed, where applicable.

**'Provider Exit'** means the manual Exiting of a Participant from the Services by the Provider, through its recording the Exit and the relevant reasons in the Department's IT Systems, in accordance with this Deed including any Guidelines.

**'Provider Records'** means all Records, except Commonwealth Records, in existence prior to the Deed Commencement Date:

- (a) incorporated in;
- (b) supplied with, or as part of; or
- (c) required to be supplied with, or as part of,

the Deed Records.

**'Provider IT System'** means an information technology system used by the Provider or any Subcontractor in association with the delivery of the Services or to Access the Department's IT Systems.

**'Purchase'** means to acquire Activities from an Activity Host Organisation or a Supervisor by the payment of money, in accordance with any Guidelines.

**'Record'** means any document, information or data stored by any means, and any copy or extract of the same, relating to the Services, and includes Deed Records, Commonwealth Records and Provider Records.

**'Records Management Instructions'** means any Guidelines provided by the Department in relation to the management, retention and disposal of Records.

**'Recurring'** means Employment or Unsubsidised Self-Employment which results in more than one Employment Outcome for the same Participant during the same Period of Unemployment with the same Employer, as specified in any Guidelines.

**'Referral'** or **'Referred'** means a referral of a person to the Provider by Services Australia or the Department.

**'Regional Employment Trials'** or **'RET'** means the Commonwealth program of that name, administered by the Department, designed to support local stakeholders to develop and implement tailored projects across 10 selected disadvantaged regions. The program also includes earlier access to Relocation Assistance for eligible Participants.

**'Registration'** means the act of registering the creation or activation of a Participant's record in the Department's IT Systems.

**'Regulator'** means the person who is the regulator within the meaning of the WHS Act.

**'Reimbursement'** means any amounts payable by the Department under this Deed as a reimbursement, or such other payments that may be Notified by the Department to be a reimbursement.

**'Related Entity'** means:

- (a) those parts of the Provider other than Own Organisation;
- (b) 'entities connected with a corporation' as defined in section 64B of the *Corporations Act 2001* (Cth) with the word 'Provider' substituted for every occurrence of the word 'corporation' in that section;
- (c) an entity that:
  - (i) can control, or materially influence, the Provider's activities or internal affairs;
  - (ii) has the capacity to determine, or materially influence, the outcome of the Provider's financial and operating policies; or
  - (iii) is financially interested in the Provider's success or failure or apparent success or failure;
- (d) if the Provider is a company, an entity that:
  - (i) is a holding company of the Provider;
  - (ii) is a subsidiary of the Provider;
  - (iii) is a subsidiary of a holding company of the Provider;
  - (iv) has one or more Directors who are also Directors of the Provider; or
  - (v) without limiting clauses (d)(i) to (iv) of this definition, controls the Provider; or
- (e) an entity, where a familial or spousal relationship between the principals, owners, Directors, officers or other like persons exists between that entity and the principals, owners, Directors, officers or like persons of the Provider.

**'Relocation Assistance'** means the means the Commonwealth program called 'Relocation Assistance to Take Up a Job'.

**'Relocation Assistance Agreement'** means a written agreement, entered into between a Provider and a Relocation Assistance Participant in relation to a Relocation Assistance Payment, in a form as specified in any Guidelines.

**'Relocation Assistance Participant'** means an Intensive Stream Participant who meets the eligibility requirements for a Relocation Assistance Participant, as specified in any Guidelines.

**'Relocation Assistance Payment'** means a payment to assist a Relocation Assistance Participant to prepare to relocate, to move and/or to settle into a new location, in the amounts the Relocation Assistance Participant is eligible in accordance with any Guidelines.

**‘Relocation Assistance Placement’** means an Employment position that meets the eligibility requirements for a Relocation Assistance Placement, as specified in any Guidelines.

**‘Report’** means Deed Material that is provided to the Department for the purposes of reporting on the Services.

**‘RET Activity’** means an Activity provided by a RET Grant Recipient.

**‘RET Grant Recipient’** means an entity that has a funding agreement with the Commonwealth under which it is funded to provide RET Activities, among other things.

**‘RET Partnering Provider’** means, in relation to a RET Activity, the jobactive Provider, NEST Provider, Transition to Work Provider or ParentsNext Provider that is the nominated partnering provider for that RET Activity in accordance with any Guidelines.

**‘Schedule’** means a schedule to this Deed.

**‘Security Contact’** means one or more Personnel with responsibility:

- (a) for ensuring the Provider’s compliance with the Department’s Security Policies;
- (b) to use the online identity and access management tool to manage system access; and
- (c) to communicate with the Department in relation to IT security related matters.

**‘Service Delivery Plan’** means a service delivery plan approved by the Department under clause 63.

**‘Service Fee’** means the Fee set out in Table 2A in Annexure B1.

**‘Service Fee Period’** means a sequential period of six months during the Payment Period.

**‘Service Guarantees’** means a set of minimum service standards for the Services as specified in Annexure B2.

**‘Service Period’** means, subject to any contrary stipulation in this Deed, the period of that name specified in item 4 of Schedule 1.

**‘Service Start Date’** means the date of that name specified in item 3 of Schedule 1.

**‘Services’** means the services that the Provider is contracted to perform and provide under this Deed and includes Targeted Stream Services and Intensive Stream Services, as relevant.

**‘Services Australia’** means the Commonwealth department of that name or such other agency or department as Notified by the Department from time to time, and where the context so admits, includes its relevant officers, delegates, employees and agents.

**‘Services Australia Fortnight’** means the period determined under section 43(1)(b) of the *Social Security (Administration) Act 1999* (Cth) that applies to a Participant.

**‘Site’** means one or more physical locations in a Location specified in item 6.4 of Schedule 1.

**‘Six Month Period’** means any one of the following periods during the Term of this Deed:

- (a) 1 January to 30 June; or
- (b) 1 July to 31 December.

**‘Skills for Education and Employment’** or **‘SEE’** means the Commonwealth program of that name (or such other name as advised by the Department from time to time), administered by the Department of Education and Training.

**‘Social Security Appeals Process’** means reviews and appeals of decisions made under the *Social Security Act 1991* (Cth) or *Social Security (Administration) Act 1999* (Cth).

**‘Social Security Law’** means the *Social Security Act 1991* (Cth), the *Social Security (Administration) Act 1999* (Cth), and includes all relevant subordinate legislation and the Guide to Social Security Law and instruments, each as amended from time to time.

**‘Subcontract’** means any arrangement entered into by the Provider by which some or all of the Services under this Deed are provided by another entity.

**‘Subcontractor’** means any party which has entered into a Subcontract with the Provider, including a Material Subcontractor.

**‘Supervisor’** means a person who has the responsibility for the Supervision of Participants engaged in an Activity.

**‘Supervision’** means the action or process of directly monitoring and managing Participants participating in Activities.

**‘Suspend’** or **‘Suspended’** means the act of imposing a Suspension.

**‘Suspension’** means a period of time of that name, as recorded by either the Provider (in accordance with this Deed), the Department or Services Australia in the Department’s IT Systems, during which Service Fees will not be triggered for payment and the requirement to provide Services to a Participant is suspended in accordance with clause 77.

**‘Targeted Stream Location’** means a Location that the Provider is contracted to provide Targeted Stream Services as specified in item 6.3 of Schedule 1.

**‘Targeted Stream Participant’** means a Participant who is not an Intensive Stream Participant.

**‘Targeted Stream Services’** means the Services set out in Part B.

**‘Tax Invoice’** has the meaning given in section 195-1 of the GST Act.

**‘Taxable Supply’** has the meaning given in section 195-1 of the GST Act.

**‘Term of this Deed’** refers to the period described in clause 2.1.

**‘Third Party Employment System’** or **‘TPES’** means any Third Party IT used in association with the delivery of the Services, whether or not that Third Party IT Accesses the Department’s IT Systems, and where that Third Party IT:

- (a) contains program specific functionality or modules; or
- (b) is used, in any way, for the analysis of Records relating to the Services, or any derivative thereof.

**‘Third Party IT’** or **‘TPIT’** means any:

- (a) information technology system developed and managed; or
- (b) information technology service provided,

by a Third Party IT Vendor and used by the Provider or any Subcontractor in association with the delivery of the Services or to Access the Department’s IT Systems. ‘Third Party IT’ includes a Third Party Employment System and a Third Party Supplementary IT System.

**‘Third Party IT Vendor’** means an entity contracted by the Provider to provide information technology systems or services to the Provider in association with the delivery of the Services, whether or not the entity is a Subcontractor, and includes as relevant, its Personnel, successor and assigns, and any constituent entities of the Third Party IT Vendor’s organisation. A ‘Third Party IT Vendor’ includes a cloud services vendor, an infrastructure as a service vendor, a software as a service vendor, a platform as a service vendor, an applications management vendor, and also any vendor of infrastructure (including servers and network hardware) used for the purpose of Accessing or storing Records.

**‘Third Party IT Vendor Deed’** means an agreement between a Third Party IT Vendor that provides or uses a Third Party Employment System and the Department in the terms and form as specified by the Department from time to time.

**‘Third Party Supplementary IT System’** or **‘TPSITS’** means any Third Party IT used in association with the delivery of the Services, where that Third Party IT:

- (a) does not Access the Department's IT Systems;
- (b) does not contain program specific functionality or modules; and
- (c) is not used, in any way, for the analysis of Records relating to the Services, or any derivative thereof.

**'Time to Work Employment Service'** means the Commonwealth program of that name (or such other name as advised by the Department), administered by the Department.

**'Time to Work Participant'** means a person who is participating in the Time to Work Employment Service.

**'Time to Work Provider'** means any entity contracted by the Commonwealth to provide services under the Time to Work Employment Service Deed.

**'Transition Date'** means the date on which a Transitioned Participant is transferred to the Provider in the Department's IT Systems, or as otherwise Notified by the Department.

**'Transitioned Participant'** means a person identified as transitioned to the Provider by the Department's IT Systems.

**'Transition Plan'** means the plan prepared under the Time to Work Employment Service that identifies a Time to Work Participant's post-release requirements for parole; reintegration and rehabilitation services; vocational education, employment and other activities; and support services.

**'Transition to Work Provider'** means any entity contracted by the Commonwealth to provide Transition to Work services.

**'Transition to Work'** means the Commonwealth service of that name (or such other name as advised by the Department), administered by the Department.

**'Unsubsidised Self-Employment'** means self-employment where a Participant does not receive a personal income subsidy of any kind.

**'Unsuitable'** means that a position is, in accordance with any Guidelines:

- (a) a position, including a retail position, involving nudity or in the sex industry;
- (b) a position in volunteer work, work experience or unpaid work;
- (c) except in relation to wage rates, a position in contravention of Commonwealth, state or territory legislation or which involves terms and conditions of employment which are inconsistent with the relevant workplace relations laws, or any instrument made under such laws;
- (d) in relation to wage rates, a position sourced by the Provider where the wage rate paid is not at least equivalent to the rate specified in clause 76.2(a)(i) or (ii), as relevant;
- (e) a position in a training course;
- (f) a position in a program funded by the Commonwealth or by a state or territory government as advised by the Department;
- (g) in another country, regardless of whether the salary is paid in Australian dollars or by an Australian company;
- (h) a position involving illegal activity;
- (i) a position involving income or funds from gambling deemed to be inappropriate by the Department;
- (j) a position that pays a commission as either the entire remuneration or part of the remuneration, except where the commission being paid to the Participant is in addition to an amount which is paid to the Participant in accordance with any applicable Commonwealth, state or territory legislation and any applicable Modern Award or the National Minimum Wage; or
- (k) a position that the Department has advised is not acceptable.

**'Vacancy'** means a:

- (a) vacant position for:

- (i) paid Employment with an Employer; or
  - (ii) Unsubsidised Self Employment;
- (b) Pre-existing Employment,

that is not Unsuitable.

**'Valid Reason'** means a valid reason as specified in any Guidelines.

**'Vocational Barrier'** means a lack of appropriate training, career counselling, skills or qualifications for Employment.

**'Voluntary Work'** means an Activity which meets the criteria specified by the Department for voluntary work in any Guidelines and provides Participants with opportunities to gain personal and workplace skills that will directly improve their Employment prospects.

**'Voluntary Participant'** means a Participant who:

- (a) is subject to an Exemption;
- (b) is otherwise identified by the Department as being a Compulsory Participant; and
- (c) has decided to volunteer to participate in additional activities as referred to in clause 78.4.

**'Wage Subsidy'** means a payment identified as a Wage Subsidy in any Guidelines, and any other wage subsidy as advised by the Department.

**'Wage Subsidy Agreement'** means an agreement for the purposes of the Wage Subsidy substantially in a form specified by the Department.

**'Wage Subsidy Employer'** means an Employer who meets the eligibility requirements for a Wage Subsidy as specified in any Guidelines.

**'Wage Subsidy Participant'** means an Intensive Stream Participant who meets the eligibility requirements for a Wage Subsidy as specified in any Guidelines.

**'Wage Subsidy Period'** means the payment period for a Wage Subsidy as specified in any Guidelines.

**'Wage Subsidy Placement'** means an Employment position that meets the eligibility requirements for a Wage Subsidy as specified in any Guidelines.

**'WHS Act'** means the *Work Health and Safety Act 2011* (Cth) and any 'corresponding WHS law' as defined in section 4 of the *Work Health and Safety Act 2011* (Cth).

**'WHS Entry Permit Holder'** has the same meaning as that given in the WHS Act.

**'WHS Laws'** means the WHS Act, WHS Regulations and all relevant state and territory work, health and safety legislation.

**'WHS Regulations'** means the regulations made under the WHS Act.

**'Work Experience (Other) Placement'** means a short-term, observational, unpaid work experience placement that meets the eligibility requirements for a Work Experience (Other) Placement as specified under clause 91 and any Guidelines.

**'Work for the Dole'** means the Commonwealth program of that name designed to help job seekers gain the skills, experience and confidence that they need to move to work as soon as possible, while at the same time, making a positive contribution to their local community.

**'Work Readiness'** or **'Work Ready'** means possessing the core skills and behaviours required by Employers, including:

- (a) teamwork skills;
- (b) communication skills; and



(c) a positive attitude and work ethic, including motivation, reliability and a willingness to work.

**‘Work Readiness Assessment’** means an assessment of the Work Readiness of a Participant:

(a) using any method specified in any Guidelines or agreed by the Department; and

(b) in accordance with clause 86.

**‘Work Readiness Participant’** means a Participant Notified by the Department as a Participant for whom a Work Readiness Assessment must be conducted.

**‘Working with Children Laws’** means the:

(a) *Child Protection (Working with Children) Act 2012* (NSW);

(b) *Working with Children (Risk Management and Screening) Act 2000* (Qld);

(c) *Working with Children (Criminal Record Checking) Act 2004* (WA);

(d) *Working with Children Act 2005* (Vic);

(e) *Children’s Protection Act 1993* (SA);

(f) *Working with Vulnerable People (Background Checking) Act 2011* (ACT);

(g) *Care and Protection of Children Act 2007* (NT);

(h) *Registration to Work with Vulnerable People Act 2013* (Tas); and

(i) any other legislation that provides for the checking and clearance of people who work with Children.

**‘Work Trial’** means a short period of paid employment on a trial or probation basis.

# ANNEXURE A2 – JOINT CHARTER OF DEED MANAGEMENT



## Employment Services Joint Charter of Deed Management

The Department of Employment, Skills, Small and Family Business ('the Department') and providers delivering services under this Deed (and all other employment services deeds with the Department) agree to conduct themselves in accordance with this Joint Charter of Deed Management.

### A JOINT APPROACH FOR STRONGER EMPLOYMENT SERVICES

The Employment Services Joint Charter reflects our commitment to work together to ensure that employment services meet the needs of participants, employers, communities and the Australian Government.

Together, we are committed to maintaining the reputation and integrity of employment services, strengthening the employment services industry and working together to make sure services are managed and delivered effectively and provide value for money.

### OUR COMMITMENTS

What providers can expect from the Department:	What the Department can expect from providers:
Respect and support	Respect
Openness and transparency	Collaboration
Integrity and accountability	
Continuous improvement	

# What providers can expect from the Department

## 1 Respect and support

The Department will:

- respect providers' role, experience and expertise
- treat each provider with courtesy and consideration
- meet regularly with providers
- adhere to agreed communication protocols with providers
- respond to providers' queries, generally within 10 business days
- work with providers to resolve complaints, disputes or problems, and consider the perspective of all parties—including employers and participants—when developing resolutions
- support providers to implement program changes effectively
- maintain the National Customer Service Line
- maintain the Employer Hotline to facilitate connections between employers and providers.

## 2 Openness and transparency

The Department will:

- be transparent in our business dealings
- maintain honest and open communication
- provide consistent, accurate and timely advice
- maintain feedback mechanisms to support formal and informal feedback from providers
- consult providers wherever possible, generally through industry representatives—including on contract variations
- provide reasonable notice for providers to implement new or amended guidelines.

## 3 Integrity and accountability

The Department will:

- observe the Australian Public Service (APS) Code of Conduct and APS Values
- adhere to the Commonwealth Procurement Rules, including on principles of probity and ethical and fair dealings
- act honestly and in the best interests of the Government, the employment services industry, participants and the community
- be accountable for our decisions and actions
- support providers to comply with their deed requirements by:
  - streamlining and simplifying guidelines
  - providing timely feedback from contract monitoring and program assurance activities
- treat providers' information confidentially (subject to relevant deed provisions)
- exercise its rights under the deeds in good faith.

## 4 Continuous improvement

The Department will:

- work with the industry to promote better practice and innovation
- regularly review provider performance and deliver balanced and consistent feedback
- work with providers to help them meet the needs of employers and industry
- work with providers to reduce the administrative burden of managing and complying with deeds
- continually develop its contract management capability to make sure providers receive high quality support.

# What the Department can expect from providers

## 1 Respect

Providers will:

- respect the Department's role, experience and expertise
- treat participants, the Department, other providers, host organisations and industry stakeholders with courtesy and consideration
- respond to queries appropriately.

## 2 Collaboration

Providers will:

- develop and maintain effective relationships with the Department, employers, other providers, host organisations and industry stakeholders
- work with the Department to resolve complaints, disputes or problems, using the following informal dispute resolution process in the first instance (except for matters that are excluded under the relevant deeds):
  1. The provider initially discusses any issues or problems directly with a contract or account manager.
  2. If the dispute, complaint or problem can't be resolved, the provider requests that it be raised with the relevant state manager.
  3. If the above process does not resolve the issue, the National Contract Manager will attempt to facilitate a resolution.
  4. Any dispute or problem that cannot be resolved through this informal resolution process will be managed through the formal procedures set out in the relevant Deed.

## 3 Integrity and accountability

Providers will:

- maintain high standards of professional conduct
- recognise and act on the Government's employment services policies
- implement program changes in a timely way
- maintain effective governance and control frameworks to provide assurance of the quality of services and compliance with relevant deeds
- act in accordance with the law and avoid any practice or activity which could bring employment services or the Department into disrepute
- manage feedback fairly, ethically and confidentially (subject to relevant deed provisions)
- make sure staff deliver accurate and consistent advice and information to participants, employers, host organisations and other stakeholders
- actively identify and manage risks.

## 4 Continuous Improvement

Providers will:

- work to increase outcomes for participants
- further develop service strategies that increase job outcomes for Indigenous participants
- develop tailored and effective services that meet employers' needs
- regularly review performance and work to address performance management issues
- encourage and foster innovative approaches and better practice
- support efforts to streamline activities without compromising the integrity of employment services
- maintain and strengthen the capability of staff.

# PART B – PARENTSNEXT SERVICES

## READERS GUIDE

The Provider must provide all of the Services described in this Part B to all Participants (regardless of whether they are Targeted Stream Participants or Intensive Stream Participants).

### Chapter B1 – General ParentsNext Services

#### Section B1.1 – Application and allocation of Participants to the Provider

#### 62. ParentsNext Services

- 62.1 Subject to this Deed, the Provider must provide the Services to all Participants:
- (a) who are transitioned to, Referred to, Directly Register with, or transfer to, the Provider;
  - (b) in accordance with:
    - (i) this Part B; and
    - (ii) their Participation Plan; and
  - (c) for the duration of their Period of Registration.
- 62.2 The Provider must ensure that:
- (a) any of its Personnel involved in the Services complete training via the online Learning Centre in the Department's IT Systems on Eligibility, Referral and Commencement; the ParentsNext Participant Compliance Framework (managing Compulsory Participants); Claims Processing; and Transfers, Suspension, Exemption and Exits; and
  - (b) the training is completed prior to the time when the relevant Personnel commence their involvement in the Services.

#### 63. Service Guarantees and Service Delivery Plan

- 63.1 The Provider must:
- (a) conduct Services at or above the minimum standards in the Service Guarantees and in accordance with all representations made by the Provider with regards to the Services, as specified in the Service Delivery Plan(s) and the Provider's tender response to the request for tender for this Deed;
  - (b) prominently display the Service Guarantees and Service Delivery Plan in its offices and all Sites, and make these available to Participants and potential Participants; and
  - (c) upload the Service Delivery Plan on the Provider's page of the [Department's jobactive website \(https://jobsearch.gov.au\)](https://jobsearch.gov.au).
- 63.2 Prior to 30 September 2018, the Provider must prepare a draft service delivery plan in accordance with clause 63.3 and provide it to the Department for review.
- 63.3 The Provider must ensure that the draft service delivery plan:
- (a) is in the form Notified by the Department; and
  - (b) details how the Provider will:
    - (i) deliver the Services; and

- (ii) establish frameworks that encourage Participants to be actively involved in the delivery of the Services, including the Provider's decision making about the delivery of the Services. This may include Participant feedback mechanisms, such as Participant consultation forums, which provide an opportunity for Participants to input into service delivery strategies, such as how the Provider engages with the local area, relationships with relevant service providers, and input into the types of activities the Provider offers.

63.4 The Provider must comply with any direction given to the Provider by the Department to:

- (a) change the draft service delivery plan;
- (b) provide a further draft service delivery plan to the Department for review; and
- (c) provide the further draft service delivery plan within a particular timeframe.

63.5 Prior to 1 December 2018, the Provider must give the Department a draft service delivery plan to the Department's complete satisfaction.

63.6 On Notification by the Department of its approval of the draft service delivery plan, the draft service delivery plan becomes the Service Delivery Plan.

63.7 To avoid doubt, the Department's approval of a draft service delivery plan does not in any way limit the Provider's responsibility for the performance of its obligations under this Deed.

## **64. Engagement with other services in the community**

64.1 In providing Services, the Provider must work cooperatively, and in accordance with any Guidelines, with other programs and services provided by the Commonwealth, state or territory governments, relevant local governments, and private and community services and stakeholders, including employment services providers, school and education institutions.

### **64A. Use of interpreters**

64A.1 The Provider must, when carrying out the Services, provide an interpreter to facilitate communication between the Provider and Participants wherever necessary, including where a Participant requires assistance:

- (a) to communicate comfortably and effectively with the Provider, on account of language or hearing barriers;
- (b) to understand complex information of a technical or legal nature;
- (c) during stressful or emotional situations where a Participant's command of English may decrease temporarily; or
- (d) at group forums or public consultations, where Participants do not speak or understand English, or have a hearing impairment.

64A.2 The Provider must provide access to interpreter services fairly and without discrimination, based on a proper assessment of a Participant's needs.

64A.3 Where a Participant requests the use of an interpreter and the Provider refuses to provide one, the Provider must record the reason for the Provider's decision.

64A.4 The Provider must ensure that its Personnel and Subcontractors use interpreters in accordance with any Guidelines or as otherwise directed by the Department.

## **65. Transition in**

- 65.1 The Provider must provide Services to each Transitioned Participant in accordance with this Deed, subject to:
- (a) clause 65.2;
  - (b) Annexure B2;
  - (c) any Guidelines; and
  - (d) any directions given by the Department.
- 65.2 The Provider must Commence each Transitioned Participant in Services within 12 weeks of their Transition Date.

## **66. Referrals**

- 66.1 The Provider must only accept Referrals of Participants made through the Department's IT Systems or directly by Services Australia.
- 66.2 Subject to this Deed, the Department's IT Systems will allow a flow of Referrals to the Provider within a 30 per cent tolerance of the Provider's Business Share within each Employment Region.

## **67. Relocation of Participant between Provider's Sites and locations**

- 67.1 If a Participant moves to a new location and their new location is within a reasonable distance of a Site of the Provider, and the Department's IT Systems show that they continue to be eligible to receive the Services from the Provider, the Provider must continue to provide Services to them at no additional cost to the Department.

Note: If a Participant moves to a new location in accordance with clause 67.1, the transfer of any Service Fees or Participation Fund credits (where the Provider provides Intensive Stream Services) is an internal matter for the Provider.

## **68. Transfer of Participants from the Provider**

- 68.1 A Participant may, at any time, be transferred from the Provider to another ParentsNext Provider:
- (a) by Services Australia or the Department, where the Participant moves to a new location that is not within a reasonable distance of a Site of the Provider;
  - (b) by the Department, where the Department is satisfied that:
    - (i) the Participant will receive services that could better assist them to progress towards their individual Education and Employment goals; or
    - (ii) the Participant and the Provider are unable to achieve or maintain a reasonable and constructive servicing relationship, as determined by the Department;
  - (c) if the Department, the Provider, another ParentsNext Provider and the Participant agree to the transfer;
  - (d) by the Department, where the Department reduces the Provider's Business Share in accordance with this Deed;
  - (e) if initiated by the Participant:
    - (i) directly with the Department and the Department is satisfied that the Participant considers that they will receive services that could better assist them to progress

towards their individual Education and Employment goals from the other ParentsNext Provider; or

- (ii) through the Department's IT Systems and, subject to clause 68.1A and any Guidelines, the Provider does not oppose the transfer of the Participant to the other ParentsNext Provider within three Business Days following notification by the Department that the Participant has initiated the transfer; or

(f) by the Department, for any other reason.

68.1A For the purpose of clause 68.1(e)(ii), the Provider may only oppose the transfer of the Participant to another ParentsNext Provider, in accordance with Guidelines or as otherwise approved by the Department in writing.

68.2 If a Participant is transferred in accordance with clause 68, the Provider must, in accordance with any Guidelines:

- (a) immediately provide sufficient assistance and cooperation to any person nominated by the Department to facilitate the transfer;
- (b) comply with the Department's directions in relation to the transfer or destruction of Deed Material and Commonwealth Material in the Provider's possession or control, including that stored in any External IT System; and
- (c) subject to clause 68.2(b), maintain all Records relating to the Participant in accordance with clause 31.

## **69. Transfer of Participants to the Provider**

69.1 If a Participant is transferred to the Provider for any reason, the Provider must, in accordance with any Guidelines:

- (a) immediately provide sufficient assistance and cooperation to any person nominated by the Department, to enable the Services to continue to be provided to the Participant;
- (b) conduct an Initial Interview with the Participant in accordance with clause 74;
- (c) immediately provide the Services to the Participant in accordance with this Deed; and
- (d) comply with the Department's directions in relation to the transfer of Material and Participants.

Notes to clauses 68 and 69

Note 1: If a Participant is transferred to or from the Provider:

- (a) clause 106.12 describes how adjustments are made to the Participation Fund (where the Provider provides Intensive Stream Services);
- (b) clause 100.3 describe how adjustments are made to Service Fees; and
- (c) during a 12 Week Period, clause 109 describes the situation with regards to eligibility to claim an Outcome Payment (where the Provider provides Intensive Stream Services).

69.2 Where a Participant is the subject of an Activity Host Organisation Agreement on the date of their transfer from another ParentsNext Provider to the Provider, the Provider must:

- (a) use its best endeavours to:
  - (i) novate the relevant Activity Host Organisation Agreement to it;
  - (ii) enter into a new Activity Host Organisation Agreement with the relevant Activity Host Organisation on the same terms as the current Activity Host Organisation Agreement; or



- (iii) if the other ParentsNext Provider provides the Activity itself, enter into an Activity Host Organisation Agreement with the other ParentsNext Provider;
- (b) advise the Department if it is unable to novate the relevant Activity Host Organisation Agreement or enter into an Activity Host Organisation Agreement within 10 Business Days of becoming aware of this inability; and
- (c) comply with any direction by the Department in relation to the Participant.

### **Time to Work Participants**

69.3 Where the Provider is advised by a Time to Work Provider that a Time to Work Participant is exiting the Time to Work Employment Service and transitioning to ParentsNext, the Provider must:

- (a) cooperate with the Time to Work Provider to help the Time to Work Participant move into ParentsNext Services; and
- (b) during the three week period preceding the Time to Work Participant's release from prison, participate in a facilitated transfer meeting with the Time to Work Participant and the Time to Work Provider to prepare the Time to Work Participant for their commencement of servicing under ParentsNext.

## **70. Appointments**

70.1 Unless otherwise agreed with the Department, the Provider must ensure that the Electronic Calendar has, at all times, capacity to receive an Appointment within the next two Business Days.

70.2 Where:

- (a) Services Australia fails to record an Appointment in the Electronic Calendar, for a Participant who is Referred to the Provider, within two Business Days after the Participant's Referral; or
  - (b) the Provider or Participant needs to reschedule an Appointment,
- the Provider must make an Appointment with the Participant at the next available opportunity.

70.3 Where a Participant has an Appointment with the Provider, the Provider must, in accordance with this Deed including any Guidelines:

- (a) provide the Participant with a Contact on the date and at the time of the Appointment as recorded in the Electronic Calendar; and
- (b) record the Participant's attendance at the Appointment in the Electronic Calendar by close of business on the day that the Appointment is scheduled to occur.

## **71. Recording Engagements in the Electronic Calendar**

71.1 Clause 71.2 applies to any:

- (a) Compulsory Participant; and
- (b) other Participant as specified in any Guidelines.

71.2 Subject to clause 71.1, the Provider must, in accordance with the requirements of the Department's IT Systems and any Guidelines, record in each Participant's Electronic Calendar details of all:

- (a) Mutual Obligation Requirements; and
- (b) other:
  - (i) Contacts;
  - (ii) Activities;
  - (iii) job interviews;
  - (iv) Employment, if the hours are regular and can reasonably be scheduled by the Provider;
  - (v) Education and training;
  - (vi) drug and/or alcohol treatment;
  - (vii) workshops, training and other activities delivered by the Provider to Participants; and/or
  - (viii) third party appointments,

in which the Participant is engaged to participate.

Note: The Provider must also monitor and record each Compulsory Participant's participation against their Mutual Obligation Requirements, and respond to any non-compliance by a Participant with their Mutual Obligation Requirements, in accordance with Chapter B3-Targeted Compliance Framework and Activities.

71.3 When recording an Engagement, the Provider must also:

- (a) notify the Participant, in the manner required by the Department's IT Systems, of:
  - (i) the dates and times recorded by the Provider for the Engagement; and
  - (ii) if it is the first time that the Participant will participate in an Engagement of that kind, the evidence required (if any) to confirm their participation in the Engagement; and
- (b) if the Engagement forms a part of a Compulsory Participant's Mutual Obligation Requirements:
  - (i) notify the Participant, in the manner required by the Department's IT Systems, of whether the Engagement is:
    - (A) compulsory; or
    - (B) a Reconnection Requirement; and
  - (ii) ensure that the Participant understands how to meet the Mutual Obligation Requirement and the consequences for failing to meet the Mutual Obligation Requirement.

#### **Engagements conflicting with Personal Events**

71.4 Where the Provider is considering recording an Engagement in a Participant's Electronic Calendar with the Engagement scheduled to occur at a Personal Event Time, the Provider must, in accordance with any Guidelines:

- (a) if the Engagement is not a Mutual Obligation Requirement, record the Engagement so that it is not scheduled to occur at the Personal Event Time; or
- (b) if the Engagement is a Mutual Obligation Requirement:

- (i) advise the Participant that, even though the Participant has recorded a Personal Event, the Provider may still record the Mutual Obligation Requirement so that it is scheduled to occur at the Personal Event Time;
- (ii) discuss with the Participant whether it is appropriate to so record the Mutual Obligation Requirement, including whether the Participant has sufficient notice, and is able, to make other arrangements for the Personal Event; and
- (iii) record the Mutual Obligation Requirement so that it is scheduled to occur at:
  - (A) the Personal Event Time if the Provider assesses that it is appropriate to do so, record the Provider's reasons for this assessment, and manage the conflicting events in the Electronic Calendar; or
  - (B) a time that is not the Personal Event Time.

## **Section B1.2 – Contacts**

### **72. Contacts**

- 72.1 The Provider must provide each Participant with the following Contacts in accordance with this Deed including any Guidelines:
- (a) an Initial Interview on the date of the relevant Appointment;
  - (b) at least one Contact every three months during their Period of Registration to follow up on their progress towards their individual Education and Employment goals, and assess their:
    - (i) family responsibilities; and
    - (ii) Vocational Barriers and Non-vocational Barriers;
  - (c) for Time to Work Participants, participate in a facilitated transfer meeting in accordance with clause 69.3(b);
  - (d) a Contact in accordance with clause 72.3;
  - (e) for a Compulsory Participant:
    - (i) Capability Interviews;
    - (ii) any Contact that is a Reconnection Requirement; and
    - (iii) any other Contacts required in accordance with Section B3.3; and
  - (f) any other Contacts:
    - (i) as outlined in the Provider's Service Delivery Plan and its tender response to the request for tender for this Deed; and
    - (ii) as otherwise required to ensure the Participant satisfies the requirements of their Participation Plan.
- 72.2 The Provider must, in accordance with any Guidelines, ensure that:
- (a) each Contact is appropriately tailored to meet the circumstances of the individual Participant; and
  - (b) the result of the Contact is recorded in the Department's IT Systems.
- 72.3 Where the Provider becomes aware that the Participant will be Exited and commence in Transition to Work, jobactive, NEST, or any other employment program administered by the

Department, the Provider must, before the Participant commences in the program, provide the Participant with a Contact during which the Provider:

- (a) gives the Participant information regarding the program; and
- (b) offers to give the provider in that program information about the Participant.

### **73. Initial Period**

73.1 The Provider must, during the Initial Period for each Participant:

- (a) subject to clause 73.2, conduct a JSCI assessment, where it has not already been completed within the six months prior to the Initial Interview;
- (b) discuss with the Participant their long-term and short-term Education and Employment related goals and identify a pathway to achieve the goals, taking into consideration individual and family circumstances;
- (c) begin to prepare or update a Participation Plan in accordance with clause 75;
- (d) assist the Participant to identify and choose relevant Activities, including, for Compulsory Participants, a Compulsory Activity, to participate in, and record these Activities in the Department's IT Systems;
- (e) assist the Participant to identify suitable services in the local area and refer the Participant to those services, if appropriate; and
- (f) otherwise comply with any Guidelines.

73.2 For the purposes of clause 73.1(a), if it is not possible to conduct a JSCI assessment during the Initial Period, the Provider must conduct a JSCI assessment for the Participant at the next Contact with the Participant.

### **74. Initial Interviews**

74.1 The Provider must conduct an Initial Interview with each Participant in accordance with this clause 74 and any Guidelines.

74.2 The Provider must, during the Initial Interview with each Participant:

- (a) outline the Objectives of ParentsNext;
- (b) explain the parts of the Services that the Provider will deliver in relation to them;
- (c) give the Participant a copy of the relevant Service Guarantee;
- (d) ask the Participant to sign the Privacy Form in accordance with the Guidelines;
- (e) for Compulsory Participants, explain their rights and obligations under the Social Security Law and the consequences of not meeting their Mutual Obligation Requirements; and
- (f) otherwise comply with any Guidelines.

74.3 The Provider must ensure that each Initial Interview is delivered face to face, unless there are Exceptional Circumstances, or the Department agrees otherwise in writing.

## **Section B1.3 – Participation Plans**

### **75. General requirements for a Participation Plan**

75.1 The Provider must, in accordance with any Guidelines, for each Participant:

- (a) during the Initial Period, ensure that a Delegate:

- (i) creates a new Participation Plan for the Participant, or updates the Participant's existing Participation Plan, where relevant;
  - (ii) presents the Participation Plan to the Participant for approval; and
  - (iii) explains the Participation Plan to the Participant;
- (b) within 10 Business Days after the Participation Plan is presented and explained to the Participant in accordance with clause 75.1, ensure that a Delegate enters into and approves the Participation Plan for the Participant; and
- (c) ensure that, at all times thereafter, the Participant has a current Participation Plan.

75.2 In addition to the Provider's obligations under clause 99 in relation to the Social Security Law, when working with a Participant on a Participation Plan, the Provider must ensure that the relevant Delegate complies with the rules set out in any Guidelines in relation to entering into and updating a Participation Plan.

### **Contents of a Participation Plan**

75.3 The Provider must ensure that the Participation Plan:

- (a) for Compulsory Participants, contains the terms with which the Participant must comply in order to satisfy their Mutual Obligation Requirements, including:
  - (i) a requirement to attend Appointments and to participate in at least one Compulsory Activity, unless otherwise specified in any Guidelines; and
  - (ii) the Participant's personal responsibility for self-reporting participation against their Mutual Obligation Requirements, unless the Provider has assessed that the Participant is not capable of self-reporting in accordance with clause 88.1(a);
- (b) for all Participants, contains:
  - (i) a statement of their long-term and short-term Education and Employment goals and the pathway identified to achieve those goals; and
  - (ii) the details of any vocational and non-vocational activities that:
    - (A) the Participant agrees to participate in;
    - (B) help the Participant achieve their Education and Employment goals;
    - (C) take into consideration the Participant's individual and family circumstances;
    - (D) are available locally or online; and
    - (E) cover the period until the Participant's next Contact;
- (c) where the Participant has participated in the Time to Work Employment Service, takes into account any current Transition Plan identified in the Department's IT Systems;
- (d) is updated, within the timeframe specified in any Guidelines, when any event occurs that results in the need to change the Participant's Mutual Obligation Requirements or servicing, including to take into account the outcome of any Capability Interview or Capability Assessment; and
- (e) is in a form approved by the Department and specifies all information required by any Guidelines.

75.4 The Provider must provide the Participant with the assistance, and arrange and monitor the activities, specified in the Participant's Participation Plan.

## **Section B1.4 - Vacancy management**

### **76. Vacancy management**

- 76.1 The Provider must, in accordance with any Guidelines, lodge every Vacancy that it creates or obtains in the Department's IT Systems.

Note: The Provider may lodge more than one similar vacant position with the same Employer as a Vacancy, in the Department's IT Systems.

- 76.2 The Provider must:
- (a) where a position for paid Employment is sourced by the Provider, ensure that the position is paid at a rate at least equivalent to:
    - (i) the minimum rate prescribed in any Modern Award that covers or applies to the position; or
    - (ii) if no Modern Award covers or applies to the position, the National Minimum Wage, before lodging the position as a Vacancy;
  - (b) not lodge an Unsuitable position as a Vacancy; and
  - (c) ensure that the details of each Vacancy lodged in the Department's IT Systems are complete, up to date, and comply with any conditions of use specified in any Guidelines.

Note 1: For the avoidance of doubt, the Provider is not required to:

- (a) comply with clause 76.2(a) in relation to Unsubsidised Self Employment, Pre-existing Employment or any position sourced by a Participant themselves;
- (b) for clause 76.2(a), ensure that the relevant position is paid in accordance with any applicable Enterprise Agreement; or
- (c) verify that the Employment was paid in accordance with any applicable Enterprise Agreement, Modern Award or the National Minimum Wage at the point of claiming a related Outcome (where the Provider provides Intensive Stream Services).

- 76.3 The Provider may, in accordance with any Guidelines:
- (a) refer suitable Participants to Employers with Vacancies; and
  - (b) record the Placement Start Date in the Department's IT Systems within 56 days of each Participant commencing in:
    - (i) Employment, where the Participant is successful in gaining Employment; or
    - (ii) Unsubsidised Self Employment,as relevant.

Note: The Provider can only claim Outcome Payments (where the Provider provides Intensive Stream Services) in relation to referrals of Participants from its own caseload.

## **Section B1.5 – Participant Suspension and Exit from ParentsNext Services**

### **77. Effect of Suspensions**

- 77.1 Where a Participant is Suspended, the Participant's Period of Unemployment continues but the Participant's:
- (a) current Period of Service
  - (b) current Period of Registration; and
  - (c) Payment Period (if still current),

are halted and recommence when the Suspension ends.

## **78. Suspensions**

### **Participants**

78.1 A Participant is Suspended if:

- (a) Services Australia notifies the Provider that a Participant has an Exemption; or
- (b) a Delegate records an Exemption in the Department's IT Systems.

### **Exemptions**

78.2 The Provider must ensure that a Delegate determines whether a Compulsory Participant is covered by an Exemption when required, and in accordance with, any Guidelines.

78.3 A Participant will remain Suspended until, as relevant:

- (a) their Exemption has reached its end date;
- (b) the Participant agrees to volunteer to participate in additional activities in accordance with clause 78.4; or
- (c) the Participant Exits in accordance with clause 80 or 81.

78.4 If the Provider identifies, or is notified by Services Australia, that a Participant who is Suspended under clause 78.1 has decided to volunteer to participate in additional activities, the Provider must:

- (a) agree with the Participant on what voluntary activities he or she will participate in;
- (b) update the Participant's Participation Plan as appropriate;
- (c) record in the Department's IT Systems that the Participant is participating, for a specified period of time, as a Voluntary Participant; and
- (d) provide Services to the Participant, in accordance with his or her updated Participation Plan, for the period of the agreed voluntary activity, taking into account the reason for the Exemption, where applicable.

### **Voluntary Participants**

78.5 If the Provider identifies, or is notified by Services Australia, that a Voluntary Participant has experienced a situation that affects his or her ability to participate in voluntary activities for a specified period of time:

- (a) the Provider must immediately record in the Department's IT Systems that the Participant is no longer participating as a Voluntary Participant and the Suspension period resumes; and
- (b) the Participant is Suspended and will remain Suspended until the Suspension ends or is lifted in accordance with clause 78.3.

## **79. Effect of Exits**

79.1 Subject to clauses 80.2, 80.3, 80.3A and 103.1, when a Participant is Exited in accordance with this Section B1.5, the:

- (a) current Period of Service;

- (b) current Period of Registration;
  - (c) Payment Period (if still current); and
  - (d) Period of Unemployment,
- for the Participant end.

## **80. Exits**

80.1 A Participant is Exited when:

- (a) an Effective Exit occurs;
- (b) a Provider Exit occurs; or
- (c) any other event, as advised by the Department or as specified in any Guidelines, occurs.

80.2 Where an event under clause 80.1 occurs, the Provider may cease providing Services to a Participant except to the extent that clause 103.1 or clause 105.2 applies.

Note: When a Participant is Exited in accordance with this Section B1.5, the Period of Registration for the Participant ends.

### **Return to Services**

80.3 Where an Exit occurs for a Participant, but the Participant returns to the Services less than 13 Consecutive Weeks after the date of the Exit:

- (a) the Participant's:
  - (i) Period of Service;
  - (ii) Period of Registration (if relevant); and
  - (iii) Payment Period (if the Department's IT Systems specify that the Participant's Payment Period continues),continue from the date of the Participant's return; and
- (b) the Provider must, as soon as it becomes aware of the Participant's return:
  - (i) resume providing Services to the Participant; and
  - (ii) record the resumption of Services on the Department's IT Systems in accordance with any Guidelines.

80.3A Where an Exit occurs for a Participant, but the Participant returns to the Services at any time after the date of the Exit, the Participant's Period of Unemployment continues from the date of the Participant's return if the Department's IT Systems specify that the Participant's Period of Unemployment continues.

80.3B Where an Exit occurs for a Participant, but the Participant subsequently returns to the Services:

- (a) at 13 Consecutive Weeks or more after the date of the Exit, the Participant begins a new:
  - (i) Period of Service;
  - (ii) Period of Registration; and
  - (iii) Payment Period; and



- (b) any time after the date of the Exit, the Participant begins a new Period of Unemployment, unless the Department's IT Systems specify that the Participant's Period of Unemployment continues.

#### **Provider Exits**

80.4 If a Participant:

- (a) is in stable Employment as specified in any Guidelines; or
- (b) does any other act, or fails to do an act, where such act or failure is specified in any Guidelines as requiring a Provider Exit,

the Provider must perform a Provider Exit for the Participant and, if relevant, refer the Participant in accordance with any Guidelines.

#### **Rules relating to Exits**

80.5 Where a Participant is Exited, the Provider may cease providing Services to the Participant.

80.6 Where a Participant is Exited, and the Participant advises the Provider of their wish to return to ParentsNext, the Provider must direct the Participant to Services Australia for reassessment unless the Provider provides Intensive Stream Services and clause 105.2 applies to the Participant.

### **81. Other Suspensions and Exits**

81.1 Participants may be otherwise Suspended or Exited, as relevant, in accordance with any Guidelines.

## **Section B1.6 – Performance management**

### **82. Performance Indicators**

#### **KPIs**

82.1 The KPIs for the efficiency of the Services delivered by the Provider are:

- (a) the proportion of Participants that attended Contacts with their Provider at least once every three months;
- (b) the proportion of Participants participating in a current Activity; and
- (c) the proportion of Participants who were Commenced within 28 days of Referral.

82.2 The KPIs for the effectiveness of the Services delivered by the Provider are:

- (a) the improvement in Work Readiness of Work Readiness Participants, and the proportion of Participants who increased their Education or found Employment, measured by an index determined by the Department; and
- (b) the proportion of Early School Leavers participating in, or who have completed, Education.

82.3 The KPI for the quality of the Services delivered by the Provider is the Department's assessment of the quality of those Services, considering:

- (a) the Provider's delivery of the Services in accordance with this Deed;

- (b) the number of validated Complaints by Customers about the Provider to the Department's National Customer Service Line and the number of validated Complaints resulting in ministerial correspondence and any Ombudsman Complaints; and
- (c) Participants' service satisfaction measured through Departmental surveys.

**Other factors in performance assessment**

82.4 When assessing the Provider's performance, the Department may also take into account other factors including, but not limited to:

- (a) the Provider's performance in assisting Aboriginal and Torres Strait Islander peoples;
- (b) the Provider's performance in building linkages with Employers to understand and meet the skills needs of the local labour market;
- (c) the Provider's use of the Participation Fund (where the Provider provides Intensive Stream Services);
- (d) collaboration with other employment service providers, including Other Program Providers;
- (e) the extent to which the Provider:
  - (i) monitors compliance of Participants with their Mutual Obligation Requirements and other requirements in their Participation Plans; and
  - (ii) implements the targeted compliance framework specified in Section B3.3 as necessary to ensure that Compulsory Participants comply;
- (f) usage and delivery of initiatives and programs that may be announced by the Government over the Term of this Deed;
- (g) the Provider's compliance with this Deed and any representation made by the Provider in its tender response to the request for tender for this Deed; and
- (h) any other information available to the Department, including Provider feedback, feedback from Participants, Employers, intelligence from the Department's Employment Services Tip off Line and Services Australia.

**83. Action about performance**

83.1 Without limiting the Department's rights under this Deed or the law, if, at any time, the Department considers that the performance of the Provider at the Location or Site level is less than satisfactory (including as assessed against the KPIs and the outcomes of any Program Assurance Activities), the Department may, at its absolute discretion:

- (a) reduce the Provider's Business Share; or
- (b) require the Provider to close relevant Sites,

and the Provider must comply with any direction by the Department in relation to such action.

83.2 If, at any time, the Department considers the performance of the Provider at the Location level warrants it, the Department may, with the agreement of the Provider, increase the Provider's Business Share for a period of time specified by the Department.

## **Chapter B2 – Specific ParentsNext Services**

### **Section B2.1 – ParentsNext Services**

#### **84. Assistance**

- 84.1 In addition to the obligations and commitments specified in:
- (a) Chapter B1;
  - (b) the Service Delivery Plan; and
  - (c) the Provider’s tender response to the request for tender for this Deed,
- the Provider must, for each Participant, as appropriate to their needs, and in accordance with any Guidelines:
- (d) support them to access the full range of activities and services in their local area so as to address Non-vocational Barriers and improve their personal situation and/or Work Readiness;
  - (e) assist them to address literacy and numeracy deficits;
  - (f) refer them, where appropriate, to Education courses that help them to complete a training course that is part of the SEE program, Year 12 or gain a Certificate III or higher qualification;
  - (g) provide, Purchase, Broker or arrange Activities;
  - (h) refer them to any employment program administered by the Department, where appropriate;
  - (i) monitor their participation in the Services and manage any failure to participate appropriately in accordance with this Deed, including Section B3.3; and
  - (j) provide any other support as directed by the Department.

#### **85. Services in the Location and Excluded Referrals**

- 85.1 The Provider must make itself aware of other relevant initiatives and services available to Participants in the Location, and work collaboratively with relevant providers to ensure that its referrals of Participants to other initiatives and services are appropriate.
- 85.2 The Provider must not make Excluded Referrals.

### **Section B2.2 – Work Readiness Assessments**

#### **86. Work Readiness Assessments**

- 86.1 The Provider must conduct Work Readiness Assessments in accordance with this clause 86 and any Guidelines.
- 86.2 The Provider may conduct a Work Readiness Assessment for a Participant who is not a Work Readiness Participant if the Provider considers it appropriate to do so.
- 86.3 The Provider must use an instrument as Notified by the Department to conduct Work Readiness Assessments.
- 86.4 The Provider must:
- (a) ensure that any of its Personnel or Subcontractors who are required to conduct Work Readiness Assessments, have successfully completed training as Notified by the Department; and

- (b) when requested by the Department, provide evidence that the relevant Personnel or Subcontractors have successfully completed this training.

## Chapter B3 – Targeted Compliance Framework and Activities

### READER'S GUIDE

Providers must actively monitor and manage Mutual Obligation Requirements for each Compulsory Participant to assist the Participant to meet their obligations for receipt of an Income Support Payment.

Under the Targeted Compliance Framework, a Compulsory Participant's Income Support Payment may be suspended, reduced and/or cancelled if the Participant commits a Mutual Obligation Failure, ie, fails to comply with obligations such as attending appointments or undertaking activities.

If a Compulsory Participant commits a Mutual Obligation Failure, the Compulsory Participant's Income Support Payment will be suspended until a Reconnection Requirement is met. The Income Support Payment may then be back paid. Additionally, if the Compulsory Participant:

- does not meet their Reconnection Requirement within 4 weeks, Services Australia will usually cancel the Participant's Income Support Payment;
- does not have a Valid Reason for a Mutual Obligation Failure, the Participant will also accrue a Demerit; and
- has persistently committed Mutual Obligation Failures (determined largely by the accrual of Demerits) and does not have a Reasonable Excuse, Services Australia will also reduce their Income Support Payment (by either 50% or 100% for a period) or cancel their Income Support Payment.

No Income Support Payments may be paid to the Compulsory Participant for 4 weeks if an Income Support Payment is cancelled where the participant has persistently committed Mutual Obligation Failures.

## Section B3.1 – Mutual Obligation Requirements

### 87. Mutual Obligation Requirements

87.1 For each Compulsory Participant, the Provider must:

- (a) ensure that the Participant understands:
- (i) their Mutual Obligation Requirements;
  - (ii) their personal responsibility to self-report participation against their Mutual Obligation Requirements (unless the Participant is assessed as not being capable of self-reporting under clause 88.1(a));
  - (iii) the circumstances in which a Mutual Obligation Failure and failure to meet a Reconnection Requirement can occur, including where the Participant does not communicate an Acceptable Reason prior to failing to meet a Mutual Obligation Requirement; and
  - (iv) the consequences for the Participant's Income Support Payment if the Participant persistently commits Mutual Obligation Failures without a Reasonable Excuse or fails to meet a Reconnection Requirement;
- (b) assess the Participant's capability to take personal responsibility for self-reporting in accordance with clause 88.1(a);

- (c) actively monitor and record each Compulsory Participant's participation against their Mutual Obligation Requirements in accordance with clause 88.1;
- (d) respond to any non-compliance by a Participant with their Mutual Obligation Requirements in accordance with Section B3.3 - Compliance Action; and
- (e) confirm, at least once every six months following the Commencement of each Compulsory Participant, that all relevant contact details are accurately reflected in the Department's IT Systems, including the Compulsory Participant's phone number(s), email address and postal address.

## **88. Personal Responsibility and Monitoring**

88.1 For each Compulsory Participant, the Provider must:

- (a) when entering into a Participation Plan, assess the Participant's capability to take personal responsibility for self-reporting participation against the Mutual Obligation Requirements in their Participation Plan in accordance with any Guidelines, and record the result of this assessment in the Department's IT Systems; and
- (b) actively monitor the Participant's compliance with the Mutual Obligation Requirements, including as specified in clause 88.2.

88.2 For each Compulsory Participant, the Provider must:

- (a) if the Provider assesses the Participant is capable of self-reporting, confirm the Participant's self-reporting of; or
- (b) if the Provider assesses that Participant is not capable of self-reporting, record for the Participant,  
  
participation against each of the Mutual Obligation Requirements scheduled in their Electronic Calendar:
- (c) no later than close of business on the day that the Engagement is scheduled to occur in the Participant's Electronic Calendar; or
- (d) as otherwise specified in any Guidelines.

## **89. Active Management of Mutual Obligation Requirements**

89.1 If the Provider is satisfied that a Compulsory Participant has an Acceptable Reason for being unable to comply with a Mutual Obligation Requirement on the date or at the time the Mutual Obligation Requirement is scheduled to occur in their Electronic Calendar, the Provider must reschedule or remove the Mutual Obligation Requirement from the Electronic Calendar in accordance with any Guidelines.

Note: A Compulsory Participant will not commit a Mutual Obligation Failure if the relevant Mutual Obligation Requirement is rescheduled or removed by the Provider in accordance with clause 89.1.

## **Section B3.2 – Activities**

### **90. Activities**

90.1 The Provider must, in accordance with any Guidelines, ensure that:

- (a) each Participant participates in Activities that:
  - (i) are in accordance with their Participation Plan;
  - (ii) help the Participant achieve their Education and Employment goals; and

(iii) take into account their individual and family circumstances; and

(b) Activities made available to Participants include those described in its tender response to the request for tender for this Deed.

Note: Activities may include Voluntary Work, Work Experience (Other) Placements and Launch into Work Placements and participation in other employment programs, which the Provider can refer Participants to using the Department's IT Systems. However, the Provider must not make an Excluded Referral.

90.2 Subject to this Deed including any Guidelines, the Provider must provide, Broker, Purchase or arrange Activities for the purposes of clause 90.1.

90.3 In complying with clauses 90.1 and 90.2, the Provider must give priority to Compulsory Participants over Voluntary Participants and Intensive Stream Volunteers (where the Provider provides Intensive Stream Services).

90.4 For the purposes of clauses 90.1 to 90.3, the Provider may, in accordance with any Guidelines:

- (a) provide the Activities itself, except for Launch into Work Placements;
- (b) Broker or Purchase the Activities with, or from, an Activity Host Organisation; or
- (c) arrange Activities for Participants.

90.5 Where the Provider:

- (a) Brokers an Activity, it must do so under an Activity Host Organisation Agreement and such an agreement is not a Subcontract; and
- (b) Purchases an Activity, it must, as relevant to the particular arrangement, do so under:
  - (i) a Subcontract and comply with clause 42; or
  - (ii) an Activity Host Organisation Agreement;
- (c) subject to clause 90.5(d), arranges Activities for Participants, it does not need to do so under a formal agreement, except for Work Experience (Other) Placements and any other Activities as specified in any Guidelines; or
- (d) provides an Activity itself, it must do so in accordance with any Guidelines.

90.6 Any Activity Host Organisation or other Subcontractor that provides Services directly in relation to an Activity under a Subcontract with the Provider is deemed to be an approved Subcontractor for the purposes of clause 42.1 in relation to those Services.

90.7 The Provider must ensure that an Activity Host Organisation does not use an Activity to displace paid workers or to reduce the amount of paid work available to its workers.

#### **Recording information about Activities in the Department's IT Systems**

90.8 The Provider must, in accordance with any Guidelines, record details of the following in the Department's IT Systems:

- (a) relevant Activities, including referrals to and placements in Activities; and
- (b) any other information as specified in any Guidelines.

### **91. Work Experience (Other) Placements**

91.1 Where the Provider places an eligible Participant into a Work Experience (Other) Placement, the Provider must, prior to the Participant starting that Work Experience (Other) Placement, ensure that:

- (a) the Participant; and
  - (b) the Activity Host Organisation,
- have signed an agreement as specified by the Department in any Guidelines.

## **92. Launch into Work Placements**

- 92.1 Subject to clause 92.2, the Provider may arrange Launch into Work Placements for:
- (a) eligible Compulsory Participants; and
  - (b) other eligible Participants,
- but only:
- (c) if each Launch into Work Placement does not, in whole or in part, involve work which would have been undertaken by a paid worker if the Launch into Work Placement had not taken place; and
  - (d) in accordance with any Guidelines.
- 92.2 The Provider must, in accordance with any Guidelines:
- (a) identify potentially suitable Participants for the Launch into Work Placement and refer them to an information session by the Launch into Work Organisation; and
  - (b) refer suitable Participants to the Launch into Work Placement.
- 92.3 For each Participant that the Provider refers to a Launch into Work Placement, the Provider must:
- (a) prior to the Participant starting in the Launch into Work Placement, update the Participant's Participation Plan to include details of the Launch into Work Placement; and
  - (b) comply with any requirements specified in any Guidelines with respect to the Participant's participation in, and completion of the Launch into Work Placement.
- 92.4 The Provider must:
- (a) develop and maintain effective relationships with Launch into Work Organisations in its Locations so as to ensure the successful delivery of the Launch into Work program; and
  - (b) promote, deal with enquiries, manage and report on Launch into Work, in accordance with any Guidelines.

## **92A. Regional Employment Trials**

- 92A.1 Subject to clause 92A.2, the Provider may, in accordance with any Guidelines, arrange RET Activities, or provide RET Activities if they are a RET Grant Recipient, for eligible Participants.
- 92A.2 The Provider may refer any eligible Participant to a RET Activity in accordance with any Guidelines.
- 92A.3 For each Participant that the Provider refers to a RET Activity, the Provider must:
- (a) prior to each Participant starting in the RET Activity, update the Participant's Participation Plan to include details of the RET Activity; and
  - (b) comply with any requirements specified in any Guidelines with respect to the Participant's participation in, and completion of, the RET Activity.
- 92A.4 The Provider must promote, deal with enquiries, manage and report on RET, in accordance with any Guidelines.

## 93. Work health and safety

Note: For the avoidance of doubt, the Provider must comply with the requirements in clause 93 where the Provider provides the Activity itself, as well as where any other organisation provides the Activity (such as a Related Entity).

- 93.1 Prior to the commencement of any Voluntary Work, Work Experience (Other) Placement, Launch into Work Placement or RET Activity, and throughout these Activities, the Provider must, in accordance with any Guidelines, satisfy itself that there is a safe system of work in place, including that the relevant Activity Host Organisation, Launch into Work Organisation or RET Grant Recipient is complying with work health and safety requirements relevant to the jurisdiction in which the Activity occurs.
- 93.2 The Provider must, in accordance with any Guidelines:
- (a) undertake a risk assessment:
    - (i) for any Voluntary Work, Work Experience (Other) Placement or Launch into Work Placement;
    - (ii) for any RET Activity, but only if the Provider is a RET Partnering Provider; and
    - (iii) in any case, for each individual Participant, with regard to their potential participation in any Voluntary Work, Work Experience (Other) Placement, Launch into Work Placement or RET Activity, prior to the commencement of:
      - (iv) any such Activities; and
      - (v) each Participant in such Activities;
  - (b) retain Records of each risk assessment referred to in clause 93.2(a) and any action taken in accordance with the risk assessment, and provide the relevant Records to the Department upon request;
  - (c) ensure that each Activity Host Organisation is obliged to immediately advise the Provider of any proposed or actual changes to the tasks being undertaken by a Participant involved in such Activities or the circumstances in which those tasks are being undertaken;
  - (d) when negotiating the relevant Activity Host Organisation Agreement or arranging a Launch into Work Placement or a RET Activity (if the Provider is the RET Partnering Provider in relation to the RET Activity), confirm with the relevant Activity Host Organisation, Launch into Work Organisation or RET Grant Recipient:
    - (i) whether any required actions, identified in the relevant risk assessment, have not been undertaken; and
    - (ii) whether there have been any changes in relation to the relevant Activity, including work, health and safety issues, since the date of the relevant risk assessment;
  - (e) undertake ongoing work health and safety monitoring of the Voluntary Work, Work Experience (Other) Placement, Launch into Work Placement or RET Activity (if the Provider is the RET Partnering Provider in relation to the RET Activity), as relevant; and
  - (f) for any Voluntary Work, Work Experience (Other) Placement, Launch into Work Placement or RET Activity (if the Provider is the RET Partnering Provider in relation to the RET Activity), ensure that all required action is taken:
    - (i) as identified in the relevant risk assessment; and



- (ii) if there have been any changes in relation to the relevant Activity, to immediately review and update, as necessary, the relevant risk assessment, and to address any such changes.

93.3 If the Provider does not itself employ a Competent Person relevant to meeting the obligations under clauses 93.1 and 93.2, it must engage a relevant Competent Person, as required, for this purpose.

93.4 Prior to the commencement of a Participant in any Voluntary Work, Work Experience (Other) Placement, Launch into Work Placement or RET Activity, and at all times during each Activity, the Provider must, in accordance with any Guidelines:

- (a) examine the relevant risk assessment to ensure that the Voluntary Work, Work Experience (Other) Placement, Launch into Work Placement or RET Activity is appropriate for the Participant being considered for placement, with regard to their health and safety, taking into consideration any relevant circumstances and work restrictions;
- (b) identify any training, including work health and safety training, that will be required to ensure that the Participant can participate in the Activities safely, and ensure that training of sufficient length and quality is provided to all Participants by the Activity Host Organisation, Launch into Work Organisation or RET Grant Recipient;
- (c) ensure that appropriate facilities (such as toilets and access to drinking water) will be available to all Participants;
- (d) identify if any specific equipment, clothing or materials are required for Participants to participate safely in the relevant Activities, and ensure that such materials will be provided to Participants;
- (e) ensure that the Participant being considered for placement in the Activity has been advised of the process for reporting any work health and safety issues regarding the Activities; and
- (f) purchase or fund additional insurance for the Voluntary Work, Work Experience (Other) Placement, Launch into Work Placement or placement in a RET Activity, if required.

#### **Incidents**

93.5 The Provider must Notify the Department as soon as possible, and within 24 hours, of any incident involving an Activity, including:

- (a) any accident, injury or death occurring during, or as a result of, the Activity, including in relation to a Participant, or a member of the public;
- (b) any incident which relates to a work, health and safety issue; and
- (c) any incident that may negatively impact upon the Department or bring the Services into disrepute.

93.6 Where an incident referred to in clause 93.5 is an accident, or involves injury or death, the Provider must also, as soon as possible, and within 24 hours, notify the Department in the form specified in any Guidelines giving full details of the accident, injury or death.

93.7 The Provider must comply with any instructions issued by the Department or the Department's insurance broker, and any Guidelines, in relation to insurance purchased by the Department for Participants.

## 94. Supervision

Note: Supervisors may be engaged/employed by the Provider to supervise Activities or may be engaged/employed by Activity Host Organisations to supervise Activities that they provide. Launch into Work Organisations are responsible for arranging Supervision in relation to Launch into Work Placements, and RET Grant Recipients are responsible for arranging Supervision in relation to RET Activities.

- 94.1 The Provider must, in accordance with any Guidelines, ensure that:
- (a) it, or where relevant each Activity Host Organisation, provides adequate and appropriate Supervision for any Voluntary Work or Work Experience (Other) Placement so as to ensure that relevant Participants are undertaking appropriate tasks and operating in a healthy and safe environment; and
  - (b) where any Voluntary Work or Work Experience (Other) Placement involves:
    - (i) people who are elderly, disabled or otherwise vulnerable; or
    - (ii) Children (excluding other Participants),the Supervision provided is continuous over the entire duration of the Activity.
- 94.2 The Provider must ensure that relevant checks are conducted by the Provider on all Participants and all relevant Personnel and Supervisors in accordance with clause 8, whenever an Activity involves close proximity with people who are elderly, disabled or otherwise vulnerable or Children (excluding other Participants).
- Note: Launch into Work Organisations are responsible for conducting relevant checks on their Personnel and Supervisors prior to their involvement in Launch into Work Placements, and RET Grant Recipients are responsible for conducting relevant checks on their Personnel and Supervisors prior to their involvement in RET Activities.
- 94.3 The Provider must ensure that all relevant Personnel and Supervisors for any Voluntary Work or Work Experience (Other) Placement:
- (a) are fit and proper persons to be involved in the Activities;
  - (b) have a high level of skill/knowledge, training and/or experience in:
    - (i) the part of each Activity in which they are engaged; and
    - (ii) working with, training and supervising persons in such activities; and
  - (c) have had checks as specified in clause 8.1 and have met any additional statutory requirements (including under state and territory law), prior to being given responsibility for the Supervision of Participants.
- 94.4 The Department may give Notice, on reasonable grounds related to the performance of any Voluntary Work, Work Experience (Other) Placement or Launch into Work Placement, requiring the Provider to remove, or arrange for the removal of, a Supervisor, whether engaged by the Provider or engaged by an Activity Host Organisation or Launch into Work Organisation, from work on the Activities.
- 94.5 Where the Department gives Notice under clause 94.4, the Provider must, at its own cost, promptly arrange for the removal of such a Supervisor from work on the Activities and their replacement with one or more Supervisors acceptable to the Department.
- 94.6 Except for Launch into Work Placements and RET Activities, the Provider must ensure that each Supervisor, whether engaged by the Provider or engaged by an Activity Host Organisation, is required to notify the Provider of the non-attendance at all relevant Activities,

or any other non-compliance with the Activities, of a Participant as soon as practicable, but no later than at the end of the relevant working week.

94.7 All Supervisors who:

- (a) are contracted by the Provider to provide Supervision for any Voluntary Work or Work Experience (Other) Placement that the Provider provides itself; and
- (b) are not employees of the Provider,

are deemed to be approved Subcontractors for the purposes of clause 42.1.

## 95. Other matters

95.1 The Provider must:

- (a) ensure that each Participant, Activity Host Organisation, and any Supervisor engaged by the Provider, are aware that the Activity Host Organisation, the Provider or the Department may terminate an Activity at any time;
- (b) reserve a right of termination in any relevant agreement to take account of these rights of termination and, where appropriate, make use of that right in the event of a termination of an Activity; and
- (c) ensure that each Participant is aware of the process to lodge a complaint or voice safety concerns about an Activity.

95.2 The Provider must ensure that, to the extent allowed by law and unless otherwise expressly agreed by the Parties, there is no intention or understanding on the part of an Activity Host Organisation or a Participant that any Activity itself will create legal relations between the Participant and:

- (a) the Commonwealth;
- (b) the Provider; or
- (c) the Activity Host Organisation.

## Section B3.3 – Compliance Action

### 96. Compliance Action – Mutual Obligation Failures

#### Same Business Day response to Mutual Obligation Failures

96.1 Subject to clause 96.2, if the Provider becomes aware that a Compulsory Participant has apparently committed a Mutual Obligation Failure, the Provider must:

- (a) attempt to contact the Participant on the same Business Day on which the Provider becomes aware of the apparent Mutual Obligation Failure; and
- (b) if:
  - (i) there is contact between the Provider and the Participant on that day, comply with clause 96.3 immediately during that contact; or
  - (ii) clause 96.1(b)(i) does not apply, immediately comply with clause 96.5.

96.2 Where a Mutual Obligation Failure has occurred because the Participant refused to enter into a Participation Plan, then:

- (a) clause 96.1 does not apply; and
- (b) the Provider must immediately comply with clause 96.5.

### **Successful same Business Day contact**

- 96.3 For the purposes of clause 96.1(b)(i), the Provider must:
- (a) discuss the circumstances of the apparent Mutual Obligation Failure; and
  - (b) if the Provider considers that a Mutual Obligation Failure has been committed, comply with clause 96.4.
- 96.4 For the purposes of clause 96.3(b), the Provider must:
- (a) discuss the Participant's reasons for the Mutual Obligation Failure and assess if the Participant has a Valid Reason;
  - (b) set a Reconnect Requirement, as specified in the Department's IT Systems, by scheduling a date and time for the Reconnection Requirement to occur within the timeframe specified in any Guidelines;
  - (c) advise the Participant:
    - (i) of the action taken by the Provider under clauses 96.4(b) and (e);
    - (ii) that their Income Support Payment will, as a minimum, remain suspended until they comply with their Reconnection Requirement;
    - (iii) of the effect of not complying with the Reconnection Requirement; and
    - (iv) if the Participant is identified as being in the penalty zone on the Department's IT Systems, that the Mutual Obligation Failure will be automatically referred to Services Australia;
  - (d) record the details and outcomes required in the Department's IT Systems for each matter specified in this clause 96.4; and
  - (e) take any other action specified in any Guidelines, including (where relevant):
    - (i) suspending the Participant's Income Support Payment by recording in the Department's IT Systems that the Participant has committed a Mutual Obligation Failure; and
    - (ii) if the Provider assesses in accordance with clause 96.4(a) that the Participant does not have a Valid Reason for the Mutual Obligation Failure, confirming a Demerit by recording that assessment in the Department's IT Systems.

### **Unsuccessful or unrequired same Business Day contact**

- 96.5 For the purposes of clause 96.1(b)(ii) and 96.2(b), the Provider must:
- (a) immediately:
    - (i) set a Reconnection Requirement, as specified in the Department's IT Systems, by scheduling a date and time for the Reconnection Requirement to occur within the timeframe specified in any Guidelines;
    - (ii) if the Participant does not have SMS or e-mail details recorded in the Department's IT Systems for automated notification, send the notice prepared by the Department's IT Systems in response to the Mutual Obligation Failure to the Participant's postal address;
    - (iii) record the details and outcomes required in the Department's IT Systems for each matter specified in this clause 96.5; and

(iv) take any other action specified in any Guidelines, including (where relevant), suspending the Participant's Income Support Payment by recording in the Department's IT Systems that the Participant has committed a Mutual Obligation Failure; and

(b) if the Participant later contacts the Provider to discuss the Mutual Obligation Failure, comply with clause 96.6 immediately during that contact.

96.6 For the purposes of clause 96.5(b), the Provider must:

(a) discuss the circumstances of the apparent Mutual Obligation Failure and, if the Provider considers that a Mutual Obligation Failure has been committed, discuss the Participant's reasons for the Mutual Obligation Failure and assess if the Participant has a Valid Reason;

(b) record the details and outcomes required in the Department's IT Systems for each matter specified in this clause 96.6; and

(c) take any other action specified in any Guidelines (including confirming or removing a Demerit by recording in the Department's IT Systems that the Participant does not, or does, have a Valid Reason for a Mutual Obligation Failure, where relevant).

## **97. Capability Interview and Capability Assessment**

### **Capability Interview**

97.1 The Provider must conduct a Capability Interview in accordance with clauses 97.2 and 97.3 with a Compulsory Participant if the Department's IT Systems specify that the Participant's Reconnection Requirement is a Capability Interview.

97.2 During each Capability Interview, the Provider must:

(a) ensure the Participant understands the purpose and potential outcomes of the Capability Interview;

(b) review the Participant's most recent JSCI assessment and:

(i) confirm that the JSCI assessment accurately reflects their current circumstances; or

(ii) if the JSCI assessment does not accurately reflect their current circumstances, conduct a new JSCI assessment;

(c) using the Capability Management Tool, identify and consider all known personal circumstances against the Participant's Mutual Obligation Requirements;

(d) in accordance with any Guidelines, assess whether the Participant's Job Plan is suitable for the Participant and update the Participant's Participation Plan if required; and

(e) record the details and outcomes required in the Department's IT Systems for each matter specified in this clause 97.2.

97.3 Each Capability Interview must be conducted:

(a) with only one Participant;

(b) within two Business Days of the Participant incurring the Demerit that triggered the Capability Interview, unless otherwise specified in any Guidelines; and

(c) face to face, except in allowable circumstance as specified in any Guidelines.

### **Capability Assessment**

- 97.4 Where Services Australia has conducted a Capability Assessment for a Compulsory Participant, the Provider must:
- (a) review the outcome of the Capability Assessment and action any recommendations from Services Australia arising from the outcome; and
  - (b) if the Capability Assessment found that the Participant's Participation Plan is not suitable for the Participant, ensure that a Delegate updates the Participant's Participation Plan within the timeframe and as specified in the findings of the Capability Assessment and any Guidelines.

## **98. Removing Demerits**

- 98.1 Where a Compulsory Participant has incurred a Demerit for a Mutual Obligation Failure and the Provider subsequently becomes aware that:
- (a) the Mutual Obligation Failure relates to a Mutual Obligation Requirement that the Provider considers was not appropriate to the Participant's circumstances at the time;
  - (b) the Mutual Obligation Failure was:
    - (i) caused or substantially contributed to by previously undisclosed circumstances; and
    - (ii) the Provider is satisfied that a Valid Reason would have existed for the Mutual Obligation Failure, had the relevant circumstances been disclosed at the time; or
  - (c) the Mutual Obligation Failure or Demerit was recorded in error,
- the Provider must remove the Demerit, change the related Reconnection Requirement (if required), and record the reasons for removal on the Department's IT Systems, within one Business Day of becoming aware of the relevant matter in accordance with any Guidelines.
- 98.2 Where requested by a Compulsory Participant, the Department or Services Australia, the Provider must consider if clause 98.1 applies to a Demerit, and remove the Demerit if it does.

## **99. Delegate obligations**

- 99.1 The Provider must ensure that the Provider's Personnel and Subcontractors:
- (a) are aware of, fully understand, and receive training on, the powers and functions that have been delegated to them under the Social Security Law, including in relation to:
    - (i) preparation, approval and variation of Participation Plans including specifying Mutual Obligation Requirements in Participation Plans;
    - (ii) setting the date, time and manner of participation (including by recording Engagements in the Electronic Calendar) for the requirements specified in a Participant's Participation Plan;
    - (iii) identifying Mutual Obligation Failures; and
    - (iv) determining suspension of a Participant's Income Support Payment following a Mutual Obligation Failure, imposing Reconnection Requirements and giving appropriate notice of those requirements and the effect of not complying with them;
  - (b) have, prior to taking action under Section B3.3, successfully completed all mandatory targeted compliance framework training identified in the online Learning Centre; and
  - (c) comply with the Social Security Law.

## Chapter B4 – Payments

### Section B4.1 – Payments

#### 100. Service Fees

100.1 Subject to this Deed, including this clause 100, the Department will pay the Provider a Service Fee:

(a) once at the start of each Service Fee Period for each Participant; and

(b) in accordance with Table 2A in Annexure B1,

except the Department will not pay the Provider the Service Fee on Commencement of the Participant if clause 100.3 applies.

100.2 The Provider must comply with any Guidelines in relation to the payment of Service Fees.

Note: The Department has implemented a process of automated payment of Service Fees which does not require the submission of claims by the Provider.

100.3 Where a Participant:

(a) transfers to the Provider for any reason; and

(b) was commenced on the caseload of another ParentsNext Provider,

the Department will pay the Provider, on Commencement of the Participant, a pro-rata amount of the Service Fees payable for the Participant for the Service Fee Period in which the date of the transfer occurs, calculated by the Department based on the period of time from the date of the transfer to the end of the Service Fee Period in which the date of the transfer occurs.

#### **Payment of Service Fees in advance**

100.4 Subject to this Deed, the Department will pay the Provider Service Fees in advance, within 10 Business Days after:

(a) 1 July 2018, calculated in accordance with clause 100.5; and

(b) the start of each Six Month Period, calculated in accordance with clause 100.6.

#### **Payment of Service Fees in advance on the Deed Commencement Date**

100.5 The amount of the advance payment of Service Fees referred to in clause 100.4(a) is calculated as follows:

Expected Caseload x Advance Payment Percentage x Service Fee

#### **Payment of Service Fees in advance at the start of each Six Month Period**

100.6 The amount of the advance payment of Service Fees referred to in clause 100.4(b) is calculated as follows:

Actual Caseload x Advance Payment Percentage x Service Fee

#### **Offsetting of advance Payments of Service Fees**

- 100.7 Up to 6 months after the date on which the Department makes a Payment in advance under this clause 100, the Department may offset the Payment against all the Provider's entitlements to Payments under this clause 100.
- 100.8 Subject to clause 100.8A without limiting the Department's rights under any other provision of this Deed or the law, if on the Completion Date the total amount of all Payments made in advance have not been offset under clause 100.7, the Department will not seek to recover from the Provider the amount of the advance Payments that have not been offset under this clause 100.
- 100.8A Without limiting the Department's rights under this Deed or the law, if this Deed is terminated (including under clause 48, by novation or by other agreement with the Provider), the Department may recover from the Provider the amount of any advance Payments that have not been offset under this clause 100.

**Mid-term Fee increase**

- 100.9 The amount of the Service Fee specified in Table 2A in Annexure B1 will increase by 4.4% from the start of the next Service Fee Period following 1 July 2020.



# ANNEXURE B1 – SERVICE FEE PAYMENTS

## Service Fees

Table 2A – Service Fees per Service Fee Period

Service Fee	Amount
Service Fee	\$600 per Participant

Table 2B – Advance payment of Service Fees

Expected Caseload or Actual Caseload	Advance Payment Percentage
0-99	95%
100-249	85%
250-399	75%
400 upwards	65%

# ANNEXURE B2 – SERVICE GUARANTEES



## PARENTSNEXT SERVICES GUARANTEE

### Targeted Stream

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This ParentsNext Services Guarantee reflects the Australian Government's expectations of ParentsNext Providers. It sets out the minimum level of service each Participant can expect to receive, as well as the requirements they need to meet while preparing for employment.

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The Government delivers ParentsNext through a national network of providers.

The objectives of ParentsNext are to:

- target early intervention assistance to parents at risk of long-term welfare dependency
- help parents identify their education and employment related goals and participate in activities that help them achieve their goals
- connect parents to local services that can help them address their barriers to employment.

#### **What you can expect from your ParentsNext Provider**

Your provider will:

- treat you fairly, with respect and in a culturally sensitive way
- clearly explain your requirements to you while you participate in ParentsNext
- identify your previous education and work experience, your strengths and any challenges you or your family face to increase your work readiness
- help you identify your education and employment related goals and work with you to develop your Participation Plan to help you achieve these goals. Your Participation Plan sets out the activities you will participate in to achieve your goals
- identify activities and services in your local community to help you to prepare for employment
- refer you to suitable activities and services that you agree to undertake
- identify education courses that will help you achieve your goals, including completing Year 12 or gaining a Certificate III or higher qualification
- connect you with local services and programs to address barriers to employment, including assistance to access child care and help to access financial assistance for child care
- advise you on the local jobs market, if required
- contact you at least every three months to review your goals and progress and work with you to update your Participation Plan
- provide you with information and an introduction to your provider if you are moving to a new employment service
- encourage you to be involved in the delivery of your local ParentsNext service
- reassess your needs if your circumstances change
- provide the assistance set out in the ParentsNext Service Delivery Plan.

#### **What is expected of you**

There are some things you need to do, including:

- treat staff and other Participants at your provider fairly, with respect and in a culturally sensitive way
- make every effort to attend all contacts with your provider and the Services Australia (if applicable), including scheduled telephone contacts
- sign the Participation Plan containing the activities you have agreed to do
- do everything you are required to do or have agreed to do in your Participation Plan
- if you are required to participate in ParentsNext, attend and participate appropriately in the compulsory activity in your Participation Plan
- notify your ParentsNext Provider of any changes in your circumstances, e.g. if your address or telephone number changes.

### **If you cannot attend an appointment or activity**

- Appointments - let your ParentsNext Provider know as soon as possible prior to the event if you are unable to attend an appointment
- Activities - notify your ParentsNext Provider and, if applicable, your activity provider, as soon as possible if you are unable to attend an activity

If you do not attend a compulsory appointment or activity listed in your Participation Plan, and do not notify your provider or have a valid reason, you will be subject to compliance action under the targeted compliance framework. This may result in your income support payment being immediately suspended until you re-engage satisfactorily with your provider. If you have a history of non-compliance your payment may also be reduced or cancelled.

### **Your personal information is confidential**

Your personal information is protected by law, including the *Privacy Act 1988*. Your provider will only tell service providers things about you that relate to your participation in ParentsNext and related activities and services.

Your provider may also share information with the Department of Employment, Skills, Small and Family Business and the Services Australia. Your provider will check with you first before sharing personal information about you with any other government agency.

You can ask to get access to any information your provider holds about you, and have it corrected if needed.

### **Compliments, suggestions or complaints**

Your views about the assistance you receive are important. The Department of Employment, Skills, Small and Family Business and your provider value any feedback you may have.

If you don't think you are receiving the right help and would like to make a complaint, please talk to your provider first. Your provider will offer a feedback process which is fair and will try to resolve your concerns.

If you feel you can't talk to your provider, or you are still not happy, you can contact the Department of Employment, Skills, Small and Family Business's National Customer Service Line on 1800 805 260 (free call from land lines) or email [nationalcustomerserviceline@employment.gov.au](mailto:nationalcustomerserviceline@employment.gov.au).

If you have suggestions to improve the assistance from your provider or would like to make a compliment about the help you have received, please let your provider know or call the National Customer Service Line.

If you have any concerns about your income support payments, you should contact the Services Australia. Contact details for the Services Australia can be found [on the Services Australia website \(www.humanservices.gov.au\)](http://www.humanservices.gov.au).

## PARENTSNEXT SERVICES GUARANTEE

### Intensive Stream

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This ParentsNext Services Guarantee reflects the Australian Government's expectations of ParentsNext Providers. It sets out the minimum level of service each Participant can expect to receive, as well as the requirements they need to meet while preparing for employment.

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The Government delivers ParentsNext through a national network of providers.

The objectives of ParentsNext are to:

- target early intervention assistance to parents at risk of long-term welfare dependency
- help parents identify their education and employment related goals and participate in activities that help them achieve their goals
- connect parents to local services that can help them address their barriers to employment.

#### What you can expect from your ParentsNext Provider

Your provider will:

- treat you fairly, with respect and in a culturally sensitive way
- clearly explain your requirements to you while you participate in ParentsNext, for those who are required to participate and for volunteers
- help you identify your previous education and work experience, your strengths and any challenges you or your family face to increase your work readiness
- help you identify your education and employment related goals and work with you to develop your Participation Plan to help you achieve these goals. Your Participation Plan sets out the assistance you will receive and the minimum requirements you need to meet if you are required to participate
- identify activities and services in your local community to help you to prepare for employment
- refer you to suitable activities and services that you agree to undertake
- identify education courses that will help you achieve your goals, including completing Year 12 or gaining a Certificate III or higher qualification
- connect you with local services, including assistance to access child care and help to access financial assistance for child care
- advise you on the local jobs market, if required
- contact you at least every three months to review your goals and progress and work with you to update your Participation Plan
- help you access services such as mentoring, training, post-placement support, work-related assistance and non-vocational assistance, that will help you prepare for work
- assist you in gaining employment through wage subsidies and relocation assistance
- reassess your needs if your circumstances change
- provide you with information and an introduction to your provider if you are moving to a new employment service
- encourage you to be involved in the delivery of your local ParentsNext service
- provide you the assistance set out in the ParentsNext Service Delivery Plan.

## What is expected of you

There are some things you need to do, including:

- treat staff and other Participants fairly, with respect and in a culturally sensitive way
- make every effort to attend all contacts with your provider and the Services Australia (if applicable), including scheduled telephone contacts
- sign the Participation Plan containing the activities you have agreed to do
- do everything you are required to do or have agreed to do in your Participation Plan
- if you are required to participate in ParentsNext, attend and participate appropriately in the compulsory activity in your Participation Plan
- notify your provider of any changes in your circumstances, e.g. if your address or telephone number changes. If you are required to participate and fail to do any of the above it could affect your income support payments.

## If you cannot attend an appointment or activity

- Appointments - let your ParentsNext Provider know as soon as possible prior to the event if you are unable to attend an appointment
- Activities - notify your ParentsNext Provider and, if applicable, your activity provider, as soon as possible if you are unable to attend an activity

If you do not attend a compulsory appointment or activity listed in your Participation Plan, and do not notify your provider or have a valid reason, you will be subject to compliance action under the targeted compliance framework. This may result in your income support payment being immediately suspended until you re-engage satisfactorily with your ParentsNext Provider. If you have a history of non-compliance your payment may also be reduced or cancelled. If you are a volunteer and you are not participating satisfactorily and cannot be contacted, you will be exited from ParentsNext.

## Your personal information is confidential

Your personal information is protected by law, including the *Privacy Act 1988*. Your provider will only tell service providers things about you that relate to your participation in ParentsNext.

Your provider may also share information with other government agencies if they need to, to make sure you are getting the right level of support. Your provider will check with you first before sharing personal information about you with any other government agency.

You can ask to get access to any information your ParentsNext provider holds about you, and have it corrected if needed.

## Compliments, suggestions or complaints

Your views about the service you receive are important. The Department of Employment, Skills, Small and Family Business and your provider value any feedback you may have.

If you don't think you are receiving the right help and would like to make a complaint, please talk to your provider first. Your provider will offer a feedback process which is fair and will try to resolve your concerns.

If you feel you can't talk to your provider, or you are still not happy, you can contact the Department of Employment, Skills, Small and Family Business's National Customer Service Line on 1800 805 260 (free call from land lines) or email [nationalcustomerserviceline@employment.gov.au](mailto:nationalcustomerserviceline@employment.gov.au).

If you have suggestions to improve the service that you are getting or would like to make a compliment about the help you have received, please let your provider know or call the National Customer Service Line.

If you have any concerns about your income support payments, you should contact the Services Australia. Contact details for the Services Australia can be found on the [Services Australia website \(www.humanservices.gov.au\)](http://www.humanservices.gov.au).

# Part C – Intensive Stream Services

## READER'S GUIDE

The Provider must provide all of the Services described in Part B to all Participants (regardless of whether they are Targeted Stream Participants or Intensive Stream Participants). Accordingly, the provisions of Part B apply to Targeted Stream Participants as well as to Intensive Stream Participants (e.g. Referrals of Intensive Stream Participants are covered under Part B). In addition to providing the Services described in Part B, the Provider must also provide all of the Services described in this Part C to Intensive Stream Participants only.

## Chapter C1 – Specific Requirements Relating To Intensive Stream Participants

### Section C1.1 – Application and allocation of Intensive Stream Participants

#### 101. Intensive Stream Services

- 101.1 In addition to Services specified in Chapter B1, the Service Delivery Plan and the Provider's tender response to the request for tender for this Deed, the Provider must for each Intensive Stream Participant provide Services under this Part C, taking into account their eligibility for:
- (a) access to the Participation Fund; and
  - (b) Wage Subsidies and a Relocation Assistance Payment.

#### 102. Direct Registration of Intensive Stream Volunteers without a Referral

- 102.1 Where a person presents to the Provider without a Referral, the Provider must confirm their eligibility for Direct Registration as an Intensive Stream Volunteer in accordance with any Guidelines, and if eligibility is confirmed, Directly Register and immediately provide Intensive Stream Services to that Intensive Stream Volunteer in accordance with this Deed, including any Guidelines.
- 102.2 Where a person Directly Registers with the Provider under clause 102.1 as an Intensive Stream Volunteer, the Provider must start providing the Intensive Stream Volunteer with Contacts in accordance with clause 72 at the next available opportunity.

#### 103. Transfer of Intensive Stream Participants to and from the Provider

- 103.1 Where an Intensive Stream Participant is the subject of a Wage Subsidy Agreement or a Relocation Assistance Agreement on the date of their transfer to the Provider, the Provider must, if Notified by the Department:
- (a) notwithstanding that the Intensive Stream Participant has Exited or is not part of the Provider's caseload, use its best endeavours to enter into a Wage Subsidy Agreement or a Relocation Assistance Agreement, as relevant, with the Wage Subsidy Employer or the Intensive Stream Participant, as relevant, for a period as advised by the Department;
  - (b) advise the Department if it is unable to enter into a Wage Subsidy Agreement or Relocation Assistance Agreement, as relevant; and
  - (c) comply with any direction by the Department in relation to the Intensive Stream Participant.
- 103.2 Where an Intensive Stream Participant is the subject of a Wage Subsidy Agreement or a Relocation Assistance Agreement on the date of their transfer from the Provider, the Provider must, notwithstanding that the Intensive Stream Participant has Exited or is not part of the Provider's caseload:

- (a) remain a party to, and continue to comply with, the Wage Subsidy Agreement or Relocation Assistance Agreement, as relevant; and
- (b) continue to comply with this Deed, including clause 107 in relation to the Wage Subsidy Agreement, or clause 108 in relation to the Relocation Assistance Agreement, as relevant,

unless otherwise Notified by the Department.

## **104. Suspensions**

- 104.1 If the Provider identifies, or is notified by Services Australia, that an Intensive Stream Volunteer has experienced a situation that affects his or her ability to participate in voluntary activities for a specified period of time, the Provider must Suspend the Intensive Stream Volunteer, for a period of up to 13 weeks, or for multiple periods up to 13 weeks at a time, as appropriate, by recording the Suspension and the reasons for the Suspension in the Department's IT Systems.
- 104.2 Following any period of Suspension specified in clause 104.1, the Provider must resume providing Services to the Intensive Stream Volunteer.

## **105. Exits**

- 105.1 If an Intensive Stream Volunteer:
  - (a) advises the Provider that they no longer wish to participate in ParentsNext;
  - (b) misses two consecutive Appointments; or
  - (c) ceases to meet the Eligibility Criteria,the Provider must perform a Provider Exit for the Intensive Stream Volunteer and, if relevant, refer the Intensive Stream Volunteer in accordance with any Guidelines.
- 105.2 Where an Intensive Stream Participant is Exited because they move from an Intensive Stream Location to a Targeted Stream Location, the Provider must Contact the Intensive Stream Participant to ask if they wish to continue to receive Intensive Stream Services from the Provider. If the Intensive Stream Participant requests to receive Intensive Stream Services from the Provider, the Provider must Directly Register the Intensive Stream Participant in accordance with clause 102, provided that the requirements of that clause can be satisfied.

## **Section C1.2 – Participation Fund, Wage Subsidies and Relocation Assistance**

### **106. Participation Fund**

- 106.1 Subject to this clause 106, the Provider may seek Reimbursements from the Participation Fund only in relation to Intensive Stream Participants and only in accordance with any Guidelines.
- 106.2 Each claim for Reimbursement from the Participation Fund must be rendered by the Provider to the Department no more than 56 days after the relevant purchase has been made by the Provider or as otherwise specified in any Guidelines.
- 106.3 The Provider may purchase goods and services for Intensive Stream Participants in advance in accordance with any Guidelines, and where it claims a Reimbursement in relation to such goods and services, the Provider must, where required by any Guidelines, record the details of each Intensive Stream Participant who was assisted by such a purchase in the Department's IT Systems.

- 106.4 If, in the Department's view, the Provider has claimed Reimbursement from the Participation Fund in a manner which is inconsistent with this clause 106, the Department may, in addition to any other action available under this Deed, take the action described in clause 106.7(a).
- 106.5 The Department may advise the Provider of persons (other than Intensive Stream Participants) in relation to whom the Participation Fund may be used, and where the Department so advises, this clause 106 will apply to those persons as if they were Intensive Stream Participants.
- 106.6 The Department may direct the Provider to deliver specific additional services to support the local labour market, for which an agreed Participation Fund credit or funding will be made available in accordance with the Guidelines, and for which amounts may be quarantined or reserved in accordance with clause 106.7(b).
- 106.7 The Department may, at any time:
- (a) impose limits upon the Provider's access to the Participation Fund; and
  - (b) determine that amounts within the Participation Fund are to be quarantined or reserved for particular purposes and, where such amounts have been so quarantined or reserved, the Provider must not seek Reimbursement for a purpose other than that for which the amounts have been quarantined or reserved.
- 106.8 The Provider must not represent notional credits allocated to it in the Participation Fund in its financial accounts.
- 106.9 Subject to clauses 106.11 to 106.14, the Department will credit the Participation Fund once, in the amounts and at the times specified in Table 3 in Annexure C1.
- 106.10 The Department will not credit the Participation Fund on Commencement of a Participant where the Participant:
- (a) transfers to the Provider; and
  - (b) was, at any time during the Participant's current Period of Service, commenced on the caseload of another ParentsNext Provider as an intensive stream participant.
- 106.11 The Provider may only seek Reimbursements from the Participation Fund in accordance with the credits available to them as specified in the Department's IT Systems at the time of the Provider's claim.
- 106.12 Where an Intensive Stream Participant transfers from the Provider:
- (a) in accordance with clauses 68.1(a) to 68.1(c), the transfer of any Participation Fund credits will be a matter for the Provider to negotiate with the other ParentsNext Provider; and
- Note: The Provider's Participation Fund may go into a negative balance as a result of these transfers.
- (b) in accordance with clauses 68.1(d) or 68.1(e), the Department will transfer any remaining Participation Fund credits from the Provider to another ParentsNext Provider taking into account the proportion of the Provider's caseload being transferred.
- 106.13 Subject to clause 106.14, the Provider may transfer amounts credited at one Site to another Site regardless of the Location.
- 106.14 The Department may, at any time:
- (a) increase or reduce the amounts credited to the Participation Fund; or



- (b) place limits on or restrict the Provider's ability to transfer amounts credited to the Participation Fund between its Sites.

#### **Mid-term Participation Fund credit increase**

- 106.15 The amount of the Participation Fund credit specified in Table 3 in Annexure C1 will increase by 4.4% from 1 July 2020 for all Intensive Stream Participants that Commence on or after 1 July 2020.

### **107. Wage Subsidies**

- 107.1 The Provider must offer, manage, deal with enquiries and report on Wage Subsidies, in accordance with any Guidelines.
- 107.2 Subject to any contrary provision specified in any Guidelines, the Provider must only pay a Wage Subsidy to a Wage Subsidy Employer with respect to a Wage Subsidy Participant if the Provider has, for each Wage Subsidy Period, first:
- (a) confirmed that:
    - (i) the Intensive Stream Participant is a Wage Subsidy Participant; and
    - (ii) the relevant Employment position is a Wage Subsidy Placement;
  - (b) entered into a Wage Subsidy Agreement with the relevant Wage Subsidy Employer;
  - (c) received from the relevant Wage Subsidy Employer, Documentary Evidence of the Wage Subsidy Participant's Employment for each relevant Wage Subsidy Period; and
  - (d) confirmed that the Wage Subsidy Employer is compliant with the Wage Subsidy Agreement,
- and done so in accordance with any Guidelines.
- 107.3 Subject to any contrary provision specified in any Guidelines, the Provider must ensure that each payment of a Wage Subsidy is:
- (a) paid from the Provider's own funds;
  - (b) paid to the relevant Wage Subsidy Employer only once for each Wage Subsidy Participant;
  - (c) paid for the relevant Wage Subsidy Period and in the instalment amount as specified in any Guidelines; and
  - (d) otherwise paid in accordance with any Guidelines.

#### **Reimbursement**

- 107.4 Once the Provider has properly paid a Wage Subsidy in accordance with clauses 107.2 and 107.3, the Provider may submit a claim for Reimbursement through the Department's IT Systems, but must only do so in accordance with this clause 107 and any Guidelines.
- 107.5 Each claim for Reimbursement for a Wage Subsidy must be rendered by the Provider to the Department no more than 56 days after the end of the relevant Wage Subsidy Placement or as otherwise specified in any Guidelines.
- 107.6 The Department will Reimburse the Provider for each Wage Subsidy that has been paid by the Provider in accordance with this clause 107 and properly claimed by the Provider in accordance with this clause 107 and any Guidelines.

- 107.7 The Provider agrees that the Department is under no obligation to Reimburse the Provider for a Wage Subsidy paid by the Provider where the Provider has failed to make a claim for Reimbursement in accordance with this clause 107 and any Guidelines.

## **108. Relocation Assistance to Take Up a Job (Relocation Assistance)**

- 108.1 The Provider must only pay a Relocation Assistance Payment if the Provider has first, in accordance with any Guidelines:
- (a) correctly confirmed that:
    - (i) the person is a Relocation Assistance Participant;
    - (ii) the relevant Employment position is a Relocation Assistance Placement; and
    - (iii) the proposed address to which the Relocation Assistance Participant is relocating is eligible for a Relocation Assistance Payment at the amount of the proposed payment;
  - (b) received from the relevant Relocation Assistance Participant, Documentary Evidence to support their entitlement to a Relocation Assistance Payment at the amount of the proposed payment;
  - (c) entered into a Relocation Assistance Agreement with the Relocation Assistance Participant; and
  - (d) confirmed that the Relocation Assistance Participant is compliant with the Relocation Assistance Agreement.
- 108.2 The Provider must ensure that each Relocation Assistance Payment is paid in full from the Provider's own funds, and otherwise paid in accordance with the requirements specified in any Guidelines.
- 108.3 The Provider must end each Relocation Assistance Agreement in the circumstances and in the manner specified in any Guidelines.

### **Reimbursement**

- 108.4 Once the Provider has properly paid a Relocation Assistance Payment in accordance with this clause 108, the Provider may submit a claim for Reimbursement through the Department's IT Systems for no more than the same amount as that Relocation Assistance Payment, but must only do so in accordance with any Guidelines.
- 108.5 The Department will Reimburse the Provider for each Relocation Assistance Payment that the Provider makes in accordance with this Deed and properly made claims under clause 108.4.

## **Section C1.3 – Outcomes**

### **109. Outcome Payments**

- 109.1 Subject to this Deed, the Department will pay the Provider the Outcome Payments in Table 2 in Annexure C1 where:
- (a) for Education Outcomes, an Intensive Stream Participant who was on the Provider's caseload on the date that they began the relevant Education has satisfied the relevant requirement for an Education Outcome, provided that the relevant Education is of a higher level than any Education that the Intensive Stream Participant has previously completed; and

- (b) for Employment Outcomes, an Intensive Stream Participant who was on the Provider's caseload on the date that they began the relevant Placement has satisfied a 12 Week Period for an Employment Outcome,

provided that:

- (c) the Provider has rendered a Tax Invoice for the relevant Outcome Payment to the Department within 12 months of the Completion Date and the Department accepts the Tax Invoice;
- (d) data and/or Documentary Evidence is entered into the Department's IT Systems (either by Services Australia or, where relevant, by the Provider) confirming the relevant Outcome Start Date and the satisfaction of the requirements of the relevant Outcome; and
- (e) the Provider has, when recording the relevant Vacancy in the Department's IT Systems, selected the Vacancy type as specified by any Guidelines.

### **Pay Slip Verified Outcome Payments**

109.2 Where the Provider considers that:

- (a) all requirements for payment of an Outcome Payment for an Employment Outcome under clause 109.1(b) have been met; but
  - (b) the data in the Department's IT Systems provided to the Department by Services Australia does not correctly record or reflect the details of that Employment Outcome,
- the Provider may claim a Pay Slip Verified Outcome Payment from the Department if:
- (c) the Employment Outcome Start Date for the Employment Outcome is entered in the Department's IT Systems in accordance with any Guidelines;
  - (d) the Provider has rendered a Tax Invoice for the Pay Slip Verified Outcome Payment to the Department within 12 months of the Completion Date and the Department accepts the Tax Invoice; and
  - (e) the Provider:
    - (i) holds and submits any Documentary Evidence as specified under clauses 16.3 and 16.5; and
    - (ii) complies with any procedural requirements specified in any Guidelines,at the time it makes the claim.

### **Placement in a Vacancy by a jobactive Provider, Transition to Work Provider or another ParentsNext Provider**

109.3 For the avoidance of doubt and subject to clauses 109.1 and 109.2, where an Intensive Stream Participant:

- (a) is placed in a Vacancy by any jobactive Provider, Transition to Work Provider or ParentsNext Provider other than the Provider, but the relevant Intensive Stream Participant was Commenced with the Provider; and
  - (b) all requirements of clause 109.1 are met,
- the Provider may claim and the Department will pay the applicable Outcome Payment.

### **Limits on Outcome Payments**

- 109.4 The Department will not pay the Provider, and the Provider must not claim, an Outcome Payment under clauses 109.1 or 109.2:
- (a) on a pro rata basis;
  - (b) in relation to a Non-Payable Outcome;
  - (c) where the relevant Outcome Start Date occurs after the Completion Date; and
  - (d) in any other circumstances specified in any Guidelines.

### **Mid-term Outcome Payment increase**

- 109.5 The amounts of the Outcome Payments specified in Table 2 in Annexure C1 will increase by 4.4% from 1 July 2020 for all Employment Outcomes and Education Outcomes where the relevant Outcome Period ends on or after 1 July 2020.

# ANNEXURE C1 – OUTCOMES, OUTCOME PAYMENTS AND PARTICIPATION FUND CREDITS

**Table 1 – Outcomes**

Note: Table 1 provides a description of the different types of Outcomes which can be achieved by Intensive Stream Participants and the relevant Outcome Start Date and Outcome Completion Date.

Row	A OUTCOME TYPE	B OUTCOME START DATE	C OUTCOME COMPLETION DATE	D OUTCOME DESCRIPTION
1	Employment Outcome	The first day of a 12 Week Period, provided that the day is:  (a) the first day of a Services Australia Fortnight that applies to the Intensive Stream Participant; and  (b) during the Intensive Stream Participant's Period of Registration.	The day the Intensive Stream Participant completes a 12 Week Period.	For the duration of a 12 Week Period, an Intensive Stream Participant is in Employment for an average of 15 or more hours per week.
2	Education Outcome	The first day of participation in the relevant Certificate III or higher course, if that day occurs during the Intensive Stream Participant's Period of Registration.	The day the Intensive Stream Participant successfully completes the relevant Certificate in the relevant course.	Successful completion of Certificate III or higher in the relevant course or otherwise as specified in any Guidelines.
3	Education Outcome	The first day of participation in secondary Education leading to Year 12, if that day occurs during the Intensive Stream Participant's Period of Registration.	The day the Intensive Stream Participant successfully completes Year 12.	Successful completion of Year 12 or otherwise as specified in any Guidelines.
4	Education Outcome	The first day of participation in a training course that is part of the Skills for Education and Employment (SEE) program, if that day occurs during the	The day the Intensive Stream Participant successfully completes a training course that is part of the Skills for	Successful completion of a training course that is part of the Skills for Education and Employment (SEE) program where the Intensive Stream Participant:  (a) completes 650 hours of training;

Row	A OUTCOME TYPE	B OUTCOME START DATE	C OUTCOME COMPLETION DATE	D OUTCOME DESCRIPTION
		Intensive Stream Participant's Period of Registration.	Education and Employment (SEE) program in accordance with the Outcome Description.	(b) transitions into Employment (regardless of the number of hours of training completed); (c) transitions into further Education (regardless of the number of hours of training completed); or (d) as otherwise as specified in any Guidelines.

**Table 2 – Outcome Payments**

<b>Outcome Payment</b>	<b>Payment amount (GST inclusive)</b>
Employment Outcome Payment	\$300
Education Outcome Payment	\$300

**Table 3 – Participation Fund credits**

<b>Participation Fund credit (paid once only)</b>	<b>When credited</b>
\$1200	On Commencement

# DEED VARIATION HISTORY

## Part A – General Conditions

Clause	Variation, effective date
5.3(a)(ii)	GDV 3, 1 January 2020
6.2(a)	GDV 2, 1 July 2019
8.1	GDV 1, 1 January 2019
8.2	GDV 1, 1 January 2019
11.7	GDV 3, 1 January 2020
11.8	GDV 3, 1 January 2020
16.4	GDV 3, 1 January 2020
18.3	GDV 1, 1 January 2019
18.3A	GDV 1, 1 January 2019 GDV 2, 1 July 2019
26.2	GDV 1, 1 January 2019 GDV 2, 1 July 2019
27 Heading 'Access and information security assurance'	GDV 1, 1 January 2019
27.2 Subheading 'External IT Systems' and Note	GDV 1, 1 January 2019 GDV 2, 1 July 2019
27.2(a)(i), (b)(i), (v)-(viii), (c)	GDV 1, 1 January 2019
27.2(a)(ii) and (b)(iii)	GDV 1, 1 January 2019 GDV 2, 1 July 2019
27.2(a), (b)(iv), (vi), (vii), (viii)	GDV 3, 1 January 2020
27.3(a) and (c)	GDV 1, 1 January 2019
27.4 Subheading 'Provider IT System accreditation' and Note	GDV 1, 1 January 2019
27.4 and (a)	GDV 1, 1 January 2019
27.5	GDV 1, 1 January 2019
27.6	GDV 1, 1 January 2019
27.7	GDV 1, 1 January 2019
27.8	GDV 1, 1 January 2019
27.9, (a), (b)	GDV 1, 1 January 2019
27.10 Subheading 'Third Party IT' and Note	GDV 1, 1 January 2019 GDV 2, 1 July 2019
27.10(a), (i), (ii), (b), (c), (i), (ii), (d)	GDV 1, 1 January 2019 GDV 2, 1 July 2019
27.10(e)	GDV 1, 1 January 2019
27.10(f)	GDV 1, 1 January 2019 GDV 2, 1 July 2019 GDV 3, 1 January 2020
27.12	GDV 2, 1 July 2019
27.14	GDV 1, 1 January 2019
27.15(c)	GDV 2, 1 July 2019
27.15(e)	GDV 1, 1 January 2019



<b>Clause</b>	<b>Variation, effective date</b>
27.16(a) and (b)	GDV 1, 1 January 2019
	GDV 2, 1 July 2019
27.16(c)	GDV 2, 1 July 2019
27.18	GDV 2, 1 July 2019
27.20	GDV 2, 1 July 2019
29.2(d), (e)(i), (h), (j)	GDV 1, 1 January 2019
29.3(d)	GDV 1, 1 January 2019
29.5(c)	GDV 1, 1 January 2019
31.1 and (a)	GDV 2, 1 July 2019
31.4	GDV 2, 1 July 2019
31.5 Subheading 'Third Party IT Vendors'	GDV 2, 1 July 2019
31.5	GDV 2, 1 July 2019
33.2(a) and (c)	GDV 2, 1 July 2019
34.1(a)(ii)	GDV 1, 1 January 2019
34.1(a)(i), (iv), (b)(i), (iii)	GDV 2, 1 July 2019
35.1(c)(iii)	GDV 2, 1 July 2019
36.1(f)(iii)(A)	GDV 3, 1 January 2020
44.1(d)	GDV 1, 1 January 2019
	GDV 2, 1 July 2019
45.2(a)(iv) and (b)	GDV 1, 1 January 2019
	GDV 2, 1 July 2019
45.2(c)	GDV 2, 1 July 2019
48.1(e), (f), Note, (g)	GDV 1, 1 January 2019
54.1	GDV 2, 1 July 2019
54.2	GDV 2, 1 July 2019

## **Annexure A1 – Definitions**

<b>Clause</b>	<b>Variation, effective date</b>
'Social Security Law definitions'	GDV 1, 1 January 2019
	GDV 3, 1 January 2020
'Activity Host Organisation'	GDV 1, 1 January 2019
	GDV 3, 1 January 2020
'Australian Information Commissioner'	GDV 1, 1 January 2019
'Capability Interview'	GDV 1, 1 January 2019
'Capability Assessment'	GDV 3, 1 January 2020
'Consecutive Weeks'	GDV 3, 1 January 2020
'Cybersafety Policy'	GDV 2, 1 July 2019
'Department'	GDV 2, 1 July 2019
'Department's IT Systems'	GDV 3, 1 January 2020
'DHS'	GDV 3, 1 January 2020
'DHS Fortnight'	GDV 3, 1 January 2020
'Documentary Evidence'	GDV 1, 1 January 2019

<b>Clause</b>	<b>Variation, effective date</b>
'Employment Services Tip off Line'	GDV 3, 1 January 2020
'External IT System'	GDV 1, 1 January 2019
	GDV 2, 1 July 2019
'External Systems Assurance Framework' or 'ESAF'	GDV 1, 1 January 2019
'Harmful Code'	GDV 3, 1 January 2020
'Intensive Stream Volunteer'	GDV 3, 1 January 2020
'Job Seeker Classification Instrument' or 'JSCI'	GDV 3, 1 January 2020
'Malicious Code'	GDV 3, 1 January 2020
'New Employment Services' or 'NES'	GDV 3, 1 January 2020
'New Employment Services Trial' or 'NEST'	GDV 3, 1 January 2020
'New Employment Services Trial Deed' or 'NEST Deed'	GDV 3, 1 January 2020
'New Employment Services Trial Provider' or 'NEST Provider'	GDV 3, 1 January 2020
'NEIS Provider'	GDV 2, 1 July 2019
'Non-Payable Outcome'	GDV 1, 1 January 2019
	GDV 2, 1 July 2019
'Other Program'	GDV 1, 1 January 2019
'Other Program Provider'	GDV 1, 1 January 2019
'Payment Period'	GDV 3, 1 January 2020
'Period of Registration'	GDV 3, 1 January 2020
'Period of Service'	GDV 3, 1 January 2020
'Period of Unemployment'	GDV 3, 1 January 2020
'Personal Event'	GDV 1, 1 January 2019
'Personal Event Time'	GDV 1, 1 January 2019
'Privacy Commissioner'	GDV 1, 1 January 2019
'Provider IT System'	GDV 1, 1 January 2019
'Qualifying Education Course'	GDV 1, 1 January 2019
'Qualifying Training Course'	GDV 1, 1 January 2019
'Referral' or 'Referred'	GDV 3, 1 January 2020
'Regional Employment Trials' or 'RET'	GDV 1, 1 January 2019
'RET Activity'	GDV 1, 1 January 2019
'RET Grant Recipient'	GDV 1, 1 January 2019
'RET Partnering Provider'	GDV 1, 1 January 2019
	GDV 3, 1 January 2020
'Services Australia'	GDV 3, 1 January 2020
'Services Australia Fortnight'	GDV 3, 1 January 2020
'Statement of Applicability' or 'SOA'	GDV 1, 1 January 2019
'Suspension'	GDV 3, 1 January 2020
'Third Party Employment System' or 'TPES'	GDV 1, 1 January 2019
	GDV 3, 1 January 2020
'Third Party IT' or 'TPIT'	GDV 1, 1 January 2019
	GDV 2, 1 July 2019
'Third Party IT Vendor'	GDV 1, 1 January 2019
	GDV 2, 1 July 2019

Clause	Variation, effective date
'Third Party IT Vendor Deed'	GDV 1, 1 January 2019
	GDV 2, 1 July 2019
'Third Party System;	GDV 1, 1 January 2019
'Third Party Supplementary IT System' or 'TPSITS'	GDV 1, 1 January 2019
	GDV 3, 1 January 2020
'Voluntary Work'	GDV 3, 1 January 2020
'Wage Subsidy Placement'	GDV 3, 1 January 2020

## Annexure A2 – Joint Charter of Deed Management

Clause	Variation, effective date
'Employment Services Joint Charter of Deed Management'	GDV 1, 1 January 2019
	GDV 2, 1 July 2019
	GDV 3, 1 January 2020

## Part B – ParentsNext Services

Clause	Variation, effective date
63.1(c)	GDV 2, 1 July 2019
66.1	GDV 3, 1 January 2020
68.1(a), (d), (e), (f)	GDV 3, 1 January 2020
68.1A	GDV 3, 1 January 2020
68.2	GDV 3, 1 January 2020
68.2(b)	GDV 1, 1 January 2019
69.2, (a)(i), (ii), (iii), (b)	GDV 3, 1 January 2020
70.2(a)	GDV 3, 1 January 2020
70.3, (a), (b)	GDV 1, 1 January 2019
71.1(a)	GDV 1, 1 January 2019
71.3(b)(ii)	GDV 1, 1 January 2019
71.4 Subheading 'Engagements conflicting with Personal Events'	GDV 1, 1 January 2019
71.4, (a), (b)	GDV 1, 1 January 2019
72.1(e), (i), (ii), (iii), (f), (i), (ii)	GDV 1, 1 January 2019
72.2 and (b)	GDV 1, 1 January 2019
72.3	GDV 3, 1 January 2020
75.2	GDV 1, 1 January 2019
75.3(d)	GDV 1, 1 January 2019
75.4	GDV 1, 1 January 2019
77.1, (a), (b), (c)	GDV 3, 1 January 2020
78.1(a)	GDV 3, 1 January 2020
78.4	GDV 3, 1 January 2020
78.5	GDV 3, 1 January 2020
79.1, (a)-(d)	GDV 3, 1 January 2020

<b>Clause</b>	<b>Variation, effective date</b>
80.3 Subheading 'Return to Services'	GDV 3, 1 January 2020
80.3	GDV 2, 1 July 2019
	GDV 3, 1 January 2020
80.3A	GDV 3, 1 January 2020
80.3B	GDV 3, 1 January 2020
80.4	GDV 2, 1 July 2019
80.6	GDV 3, 1 January 2020
82.4(d) and (h)	GDV 3, 1 January 2020
84.1(h)	GDV 3, 1 January 2020
Chapter B3, 'Reader's Guide'	GDV 1, 1 January 2019
	GDV 3, 1 January 2020
87.1(b)	GDV 1, 1 January 2019
88.1(b)	GDV 1, 1 January 2019
88.2(c)	GDV 1, 1 January 2019
90.1 Note	GDV 3, 1 January 2020
90.4(a)	GDV 3, 1 January 2020
90.5(b)(ii), (c), (d)	GDV 3, 1 January 2020
92A Heading 'Regional Employment Trials'	GDV 1, 1 January 2019
92A	GDV 1, 1 January 2019
93 Heading 'Work health and safety' Note	GDV 3, 1 January 2020
93.1	GDV 1, 1 January 2019
93.2(a)(i)-(v), (d), (e), (f)	GDV 1, 1 January 2019
93.4, (a)-(f)	GDV 1, 1 January 2019
93.5	GDV 1, 1 January 2019
	GDV 3, 1 January 2020
93.6	GDV 3, 1 January 2020
94 Heading 'Supervision' Note	GDV 1, 1 January 2019
94.2 Note	GDV 1, 1 January 2019
94.6	GDV 1, 1 January 2019
96.1(b)(ii)	GDV 3, 1 January 2020
96.4	GDV 3, 1 January 2020
	GDV 1, 1 January 2019
96.4(b)	GDV 3, 1 January 2020
	GDV 1, 1 January 2019
96.4(c), (d), (e)	GDV 3, 1 January 2020
96.4(d)(i), (ii), (f)(ii)	GDV 1, 1 January 2019
96.5(a)(i)	GDV 1, 1 January 2019
	GDV 3, 1 January 2020
96.5(a)(iv)	GDV 3, 1 January 2020
96.6(a)	GDV 3, 1 January 2020
96.6(c)	GDV 1, 1 January 2019
	GDV 3, 1 January 2020
97.1	GDV 1, 1 January 2019
	GDV 3, 1 January 2020
97.2(b), (i), (ii), (d)	GDV 3, 1 January 2020

<b>Clause</b>	<b>Variation, effective date</b>
97.3, (b), (c)	GDV 1, 1 January 2019
	GDV 3, 1 January 2020
97.3(a)	GDV 3, 1 January 2020
97.4 and (a)	GDV 3, 1 January 2020
97.4(b)	GDV 1, 1 January 2019
	GDV 3, 1 January 2020
98 Heading 'Removing Demerits'	GDV 1, 1 January 2019
98.1, (a), (c)	GDV 1, 1 January 2019
98.1(b)(i)	GDV 3, 1 January 2020
98.2	GDV 1, 1 January 2019
	GDV 3, 1 January 2020
99.1(a) and (b)	GDV 1, 1 January 2019
100.7	GDV 2, 1 July 2019
100.8	GDV 2, 1 July 2019
100.8A	GDV 2, 1 July 2019

## **Annexure B2 – Service Guarantees**

<b>Clause</b>	<b>Variation, effective date</b>
ParentsNext Services Guarantee – Targeted Stream	GDV 1, 1 January 2019
	GDV 2, 1 July 2019
	GDV 3, 1 January 2020
ParentsNext Services Guarantee – Intensive Stream	GDV 1, 1 January 2019
	GDV 2, 1 July 2019
	GDV 3, 1 January 2020

## **Part C – Intensive Stream Services**

<b>Clause</b>	<b>Variation, effective date</b>
103 Heading 'Transfer of Intensive Stream Participants to and from the Provider'	GDV 3, 1 January 2020
103.1	GDV 3, 1 January 2020
103.2	GDV 3, 1 January 2020
104.1	GDV 3, 1 January 2020
106.10	GDV 3, 1 January 2020
107.1	GDV 3, 1 January 2020
107.5	GDV 3, 1 January 2020
107.6	GDV 3, 1 January 2020
107.7	GDV 3, 1 January 2020
109.1(a) and (b)	GDV 1, 1 January 2019
109.1(d)	GDV 3, 1 January 2020
109.2(b)	GDV 3, 1 January 2020

<b>Clause</b>	<b>Variation, effective date</b>
109.3 Subheading 'Placement in a Vacancy by a jobactive Provider, Transition to Work Provider or another ParentsNext Provider'	GDV 3, 1 January 2020
109.3(a)	GDV 3, 1 January 2020

**Annexure C1 – OUTCOMES, OUTCOME PAYMENTS AND PARTICIPATION FUND CREDITS**

<b>Clause</b>	<b>Variation, effective date</b>
Table 1 Row 1	GDV 3, 1 January 2020