

## Career Transition Assistance Trial Panel Deed 2018-2020

### PARTIES

|           |  |
|-----------|--|
| Name      | <b>Commonwealth of Australia</b> as represented by the <b>Department of Jobs and Small Business</b> ABN 54 201 218 474 |
| Address   | GPO Box 9880, Canberra ACT, 2601   |
| Deed name | <b>The Department</b>  |
| Name      | <b>[Career Transition Assistance Provider]</b>   |
|           | [ABN/ACN/ARBN]   |
| Address   | [Business Address of CTA Provider]   |
| Deed name | <b>CTA Provider</b>  |

### BACKGROUND

- A. The Career Transition Assistance (**CTA**) Trial is one of the key components of the Australian Government's Mature Age Employment Package to be delivered under the Working Age Payments Reforms. The CTA Trial will commence on 2 July 2018 in the CTA Trial Regions.
- B. The Department has entered into the *jobactive Deed 2015-2020 (jobactive Deed)* with Employment Providers. From 2 July 2018, it will be a requirement of the jobactive Deed that Employment Providers in the CTA Trial Regions, amongst other things, must consider referring eligible job seekers to participate in CTA to one or more CTA Providers on the Department's CTA Trial Panel.
- C. The CTA Provider applied to become a member of the CTA Trial Panel through the Proposal it submitted in response to the Request for Proposal – CTA Trial 2018-2020 (**RFP**).
- D. Having been evaluated as meeting the conditions for participation and achieving a satisfactory rating in respect of the evaluation criteria specified in the RFP, the Department appoints the CTA Provider to the CTA Trial Panel on the terms set out in this Deed.
- E. The CTA Provider acknowledges that the CTA Trial Panel will be administered in accordance with this Deed and agrees to comply with its terms and conditions.

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**1. Term**

- 1.1 This Deed commences on the Deed Commencement Date and, unless terminated earlier, will terminate on 26 June 2020.
- 1.2 The Department may, at its sole discretion, offer the CTA Provider an extension of the Term of this Deed by giving Notice to the CTA Provider.

**2. Appointment to the CTA Trial Panel**

- 2.1 The CTA Provider acknowledges that the Proposal has been accepted by the Department on the basis of the claims made by the CTA Provider in the Proposal.
- 2.2 By entering into this Deed:
  - (a) the Department appoints the CTA Provider to the CTA Trial Panel; and
  - (b) the CTA Provider agrees:
    - (i) to deliver each of the two CTA Elements in the CTA Trial Regions and at the Sites specified in item 5 of Schedule 1;
    - (ii) that the Schedules, Annexures, Conditions of Offer, Particulars and Guidelines form part of this Deed; and
    - (iii) any action, direction, advice or Notice that may be taken or given by the Department under this Deed, may be taken or given from time to time and at the Department's absolute discretion.
- 2.3 The CTA Provider warrants the veracity of the information (including any claims) provided to the Department:
  - (a) in the Proposal; and
  - (b) subsequently in accordance with the terms and conditions of this Deed,and acknowledges that the Department specifically relies on this information in connection to the CTA Provider's ongoing inclusion on the CTA Trial Panel.
- 2.4 Notwithstanding and without limiting any other provision of this Deed, the Department may remove the CTA Provider from the CTA Trial Panel by terminating this Deed in accordance with clause 34.2, if it is found that the CTA Provider has provided false or misleading information to the Department.

**3. CTA Elements**

- 3.1 The CTA Provider acknowledges that it is one of a number of CTA Providers on the CTA Trial Panel to which Employment Providers may Refer Participants to undertake one or both CTA Elements.  
*Note: CTA comprises two CTA Elements: the Tailored Career Assistance Element and the Functional Digital Literacy Element.*
- 3.2 The CTA Provider acknowledges and agrees that:
  - (a) the Referral of Participants to CTA Providers on the CTA Trial Panel is entirely a matter for Employment Providers and the Department provides no guarantee of the number of Participants who will be Referred to the CTA Provider;
  - (b) an Employment Provider is not obliged to Refer any Participant, or any number of Participants, to the CTA Provider;
  - (c) an Employment Provider may at any time purchase one or both CTA Elements from another CTA Provider on the CTA Trial Panel;

- (d) unless the CTA Provider is the same legal entity as the relevant Employment Provider, the CTA Provider must ensure it has a written agreement with the Employment Provider in relation to the delivery by the CTA Provider of one or both CTA Elements (**CTA Agreement**). Each CTA Agreement must include:
- (i) a right of termination in the event that:
    - (A) the CTA Provider ceases to be included on the CTA Trial Panel; or
    - (B) the scope of the CTA Provider’s participation on the CTA Trial Panel is reduced and the CTA Agreement relates to aspects of the participation from which the CTA Provider has been removed;
  - (ii) an obligation for the CTA Provider to deliver CTA Elements to Participants on Referral from the Employment Provider, to the standards specified in the Statement of Requirements;
  - (iii) terms to the effect that:
    - (A) the following standard flat fees are payable by the Employment Provider to the CTA Provider in respect of each Participant who undertakes a CTA Element:

| CTA Element                         | Non-regional CTA Trial Region (GST Inclusive) | Regional CTA Trial Region (GST Inclusive) |
|-------------------------------------|---|---|
| Tailored Career Assistance Element  | \$1,200.00                                    | \$1,500.00                                |
| Functional Digital Literacy Element | \$ 600.00                                     | \$ 750.00                                 |

- (B) the applicable fee is payable by the Employment Provider to the CTA Provider upon satisfaction of all of the following conditions:
  - a. the CTA Provider has completed an Initial Meeting with the Participant;
  - b. the CTA Provider has not assessed the Participant as unsuitable for, or not likely to benefit from participating in, the relevant CTA Element; and
  - c. the CTA Provider has submitted a correctly rendered invoice to the Employment Provider;
- (iv) such other obligations as are necessary to ensure that the CTA Provider satisfies its obligations to the Department under this Deed regarding the delivery of the CTA Elements; and
- (v) such other terms as specified by the Department in any Guidelines;
- (e) if the CTA Agreement includes a right for the CTA Provider to subcontract the delivery of any part of one or both CTA Elements, the CTA Agreement must also include restrictions equivalent to those contained in clause 30 of this Deed;
- (f) it must not charge an amount which is more than the applicable standard flat fee referred to in clause 3.2(d)(iii)(A) for delivering any CTA Element; and
- (g) without limiting the operation of clause 14, other than the standard flat fee referred to in clause 3.2(d)(iii)(A) above payable by the Employment Provider, all costs of participating in the CTA Trial Panel must be met by the CTA Provider.

3.3 If the Department determines, at its absolute discretion, that the CTA Provider has failed to deliver any part of the Services in accordance with clause 7.1(e), clause 8.4(a) or any Guidelines, the CTA Provider must:

- (a) rectify the relevant breach in accordance with any Notice from the Department; and

- (b) not impose, or seek to impose, any additional cost or charge on the relevant Employment Provider in relation to such rectification.
- 3.4 If the CTA Provider fails to comply with clause 3.3 to the Department's complete satisfaction within 10 Business Days of receiving a relevant Notice, or within such other period specified by the Department, the Department may remove the CTA Provider from the CTA Trial Panel, and terminate this Deed in accordance with clause 34.2.
- 4. Expertise, capacity and capability**
- 4.1 The CTA Provider warrants that for the Term of this Deed it has the expertise, capacity and capability to provide each of the CTA Elements and meet the Conditions for Ongoing Participation.
- 5. Administration of Deed**
- 5.1 The CTA Provider acknowledges and agrees that the Department will administer the CTA Trial Panel in accordance with this Deed.
- 5.2 The CTA Provider acknowledges and agrees that the CTA Provider's details and information, including any updates to such details and information, will be disclosed on the Department's IT Systems.
- 5.3 The CTA Provider further acknowledges and agrees that the Department may at any time:
  - (a) suspend or terminate the CTA Trial Panel on provision of Notice in accordance with clause 34; and
  - (b) collect and use information about the CTA Provider's performance in the provision of the Services for the purpose of assessing the CTA Provider's compliance with its obligations under this Deed.
- 6. Notification of change and Suspension**
- 6.1 The CTA Provider must Notify the Department:
  - (a) if there is a change to the information provided as part of their Proposal; or
  - (b) if the CTA Provider no longer has, or has a diminished, expertise, capacity or capability to:
    - (i) provide either CTA Element; or
    - (ii) deliver the Services in accordance with the Service Delivery Plan; or
    - (iii) meet one or more Conditions for Ongoing Participation,within 10 Business Days of becoming aware thereof.
- 6.2 If the CTA Provider fails to comply with clause 6.1, the Department may, at its absolute discretion, immediately terminate this Deed or reduce the scope of the CTA Provider's participation in accordance with clause 34.
- 6.3 The Department may reassess the CTA Provider's ability to satisfy the Conditions for Ongoing Participation:
  - (a) after any Notification under clause 6.1; or
  - (b) after any other event occurs, or information comes to the attention of the Department, which the Department considers may impact on the CTA Provider's ability to meet the Conditions for Ongoing Participation.
- 6.4 The Department will Notify the CTA Provider within 90 days after the Department's decision to reassess its ability to satisfy the Conditions for Ongoing Participation.
- 6.5 If the Department reassesses the CTA Provider's ability to satisfy the Conditions for Ongoing Participation, the Department may Suspend the CTA Provider's participation on the CTA Trial Panel by Notice.

- 6.6 If the Department Suspends the CTA Provider, the CTA Provider must:
- (a) immediately cease delivering CTA Elements until Notified otherwise by the Department; and
  - (b) not accept any new Referrals, and not enter into any new CTA Agreement or any extension of an existing CTA Agreement with any Employment Provider, for the period commencing on the date of the Notice of Suspension until the earlier of:
    - (i) the date on which the Department Notifies the CTA Provider that the Suspension has been lifted; or
    - (ii) the date on which the Department exercises its rights under clause 34.2.
- 6.7 The CTA Provider must notify any Employment Provider with which it has a current CTA Agreement, within 10 Business Days of the CTA Provider:
- (a) being Notified that it is Suspended;
  - (b) ceasing to be included on the CTA Trial Panel;
  - (c) having its scope of participation on the CTA Trial Panel reduced where the contract with the Employment Provider relates to aspects of the participation from which the CTA Provider has been removed; or
  - (d) becoming aware that it will cease to carry on business.

## **7. Conditions for Ongoing Participation**

- 7.1 The CTA Provider agrees that in order to continue to be included on the CTA Trial Panel, it must meet the following Conditions for Ongoing Participation:
- (a) attend and/or undertake all training and information sessions, as directed by the Department;
  - (b) ensure that its Personnel are appropriately qualified and experienced prior to delivering CTA Elements;
  - (c) provide assistance and information, as requested by the Department from time to time in relation to its delivery of the Services;
  - (d) comply with the ongoing obligations specified in clauses 11 and 20;
  - (e) deliver the Services to a high professional standard, in line with all relevant professional codes of conduct, any Guidelines, the Service Delivery Plan, and so as to achieve optimum performance when measured against the Key Performance Indicators; and
  - (f) unless specified otherwise in any Guidelines, comply with all requirements in the *Department of Employment Security Policy for External Service Providers and Users* at [https://docs.jobs.gov.au/system/files/doc/other/security\\_policy\\_for\\_external\\_service\\_providers\\_users\\_v2.3.pdf](https://docs.jobs.gov.au/system/files/doc/other/security_policy_for_external_service_providers_users_v2.3.pdf), as amended from time to time by the Department.
- 7.2 Notwithstanding any other provision of this Deed, the Department may remove the CTA Provider from the CTA Trial Panel, and terminate this Deed in accordance with clause 34.2, if the CTA Provider fails to comply with any Conditions of Ongoing Participation.
- 7.3 The Department may change the Conditions for Ongoing Participation from time to time, at its absolute discretion, and will Notify the CTA Provider of any such change.

## **8. Service Delivery Plan**

- 8.1 The CTA Provider must develop and submit a draft service delivery plan for the Department's approval, in a manner and with the content and within the timeframe specified by the Department, that clearly outlines the course offerings in their CTA Trial Region(s), including any industry specialisation. The Department may, in its absolute discretion:
- (a) approve the draft service delivery plan as the Service Delivery Plan; or

- (b) direct the CTA Provider to:
  - (i) amend the draft service delivery plan; and
  - (ii) resubmit the draft service delivery plan to the Department for its approval,in the manner and within the timeframe specified by the Department, and the CTA Provider must comply with any such direction.

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

8.3 The CTA Provider must not make changes to the Service Delivery Plan without the prior written agreement of the Department.

8.4 The CTA Provider must:

- (a) deliver each of the CTA Elements in accordance with all representations made by the CTA Provider in the Service Delivery Plan; and
- (b) prominently display the Service Delivery Plan in its offices and make these available to Participants and Employment Providers within the relevant CTA Trial Region(s).

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

9.1 Subject to clause 9.2, the Department and the CTA Provider agree to conduct themselves in accordance with the Joint Charter of Deed Management.

9.2 Clause 9.1 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.

## **10. Liaison and directions**

10.1 The CTA Provider must immediately comply with all of the Department's requests and directions.

10.2 The Department may, at any time and at its absolute discretion, give a written direction to the CTA Provider in relation to a CTA Element or a proposed CTA Element, including a direction that:

- (a) a CTA Element may not be undertaken, or continue, as a CTA Element;
- (b) a CTA Element be varied;
- (c) a CTA Element be managed directly by the CTA Provider, rather than a Subcontractor or an Employer hosting an Outbound Employer Visit who is not a Subcontractor;
- (d) the CTA Provider must provide, broker, purchase or arrange a CTA Element for Participants; or
- (e) the CTA Provider must not provide, broker, purchase or arrange a CTA Element for Participants.

## **11. General CTA Provider obligations**

11.1 The CTA Provider must deliver each CTA Element in accordance with the Statement of Requirements.

11.2 The CTA Provider must ensure that each CTA Element is delivered by one or more Facilitators who must, unless agreed in writing by the Department, be one of the Personnel specified in item 6 of Schedule 1.

11.3 The CTA Provider must, if requested by the Department:

- (a) remove Personnel from involvement in the delivery of the Services; and
- (b) find a suitable replacement for any of the Personnel specified item 6 of Schedule 1.

11.4 Employment Providers will manually Refer potential Participants to the CTA Provider. If the Department Notifies the CTA Provider, or specifies in any Guidelines or otherwise, that the CTA Provider must not accept a Referral, the CTA Provider must:

- (a) not accept the Referral or allow the relevant Participant to commence in a CTA Element; and



- (b) immediately inform the relevant Employment Provider that it cannot accept the Referral.
- 11.5 The CTA Provider must develop strong and sustainable working relationships with Employment Providers, Employers, and industry groups in their CTA Trial Region(s) to:
- (a) ensure the successful implementation of the CTA Trial;
  - (b) help Participants to commence and complete the CTA Elements;
  - (c) plan ahead to manage incoming Referrals and requirements for group-sessions;
  - (d) prepare Participants for employment and work experience placements on completion of CTA, and help meet the needs of Employers and host organisations; and
  - (e) conduct Warm Handover Meetings in accordance with the Statement of Requirements.
- 12. Checks and reasonable care**
- 12.1 Before any Personnel or Supervisor is involved in the Services, the CTA 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.
- 12.2 The CTA Provider must not allow any Participant, Personnel or a potential Supervisor to participate in the Services:
- (a) contrary to any relevant legislation or any Guidelines; 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 CTA Provider has put in place reasonable measures to remove or substantially reduce that risk.
- 13. Performance assessments**
- 13.1 During each Performance Period, the Department will monitor, measure and evaluate the CTA Provider's performance against the requirements of this Deed, including, without limitation, the Key Performance Indicators, the Joint Charter of Deed Management, the Service Delivery Plan and any representations in the Proposal.
- 13.2 For the purposes of clause 13.1, the Department may rely on data collected from any source, including, without limitation, feedback from Participants, Employers and intelligence from the Department's Employment Services Tip off Line.
- 13.3 After the end of each Performance Period, and at such other times as the Department determines, the Department may:
- (a) review the CTA Provider's performance in each CTA Trial Region in which the CTA Provider delivers the Services; and
  - (b) subsequently provide feedback to the CTA Provider on the Department's assessment of its performance.

13.4 This clause 13 does not in any way limit the rights of the Department under this Deed or at law, including rights to take remedial action against the CTA Provider, arising out of the monitoring, measuring, evaluating or reviewing of the CTA Provider's performance under this clause 13, or otherwise.

13.5 The CTA Provider agrees that the Department may publish information the Department holds concerning the CTA Provider's performance of the Services.

#### **14. Costs**

14.1 The CTA Provider is responsible for all costs of meeting its obligations under this Deed.

14.2 The CTA Provider must not impose any costs on job seekers to participate in a CTA Element.

14.3 There should be no unreasonable costs for job seekers to participate in a CTA Element.

14.4 For the avoidance of doubt, the Department is not liable or responsible for any loss, damage, cost or expense incurred by the CTA Provider in connection with its inclusion on the CTA Trial Panel or provision of a CTA Element, including and without limitation:

(a) in the event that:

(i) the CTA Provider is Suspended or removed from the CTA Trial Panel;

(ii) the CTA Provider's scope of participation on the CTA Trial Panel is reduced;

(iii) the CTA Trial Panel is suspended or terminated; or

(iv) the Conditions for Ongoing Participation change;

(b) in connection with compliance with requirements to satisfy the Conditions for Ongoing Participation including attending or undertaking all training as directed by the Department; and

(c) in connection with the provision of the Services including the provision of any other information or assistance requested by the Department in accordance with clause 7.1(c).

#### **15. Indigenous Procurement Policy**

15.1 The CTA Provider must use reasonable endeavours to increase its:

(a) purchasing from Indigenous Enterprises; and

(b) employment of Indigenous persons,

in the delivery of the Services.

15.2 For the purposes of clause 15.1(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 CTA Provider's supply chain.

*Note: 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/sites/default/files/publications/factsheet\\_ipp\\_overview\\_1.pdf](https://www.pmc.gov.au/sites/default/files/publications/factsheet_ipp_overview_1.pdf)).*

#### **16. Security**

16.1 The CTA Provider must comply, and ensure that its Subcontractors comply, with the Department's Security Policies.

#### **17. Information Technology**

*General*

- 17.1 The CTA Provider acknowledges that it will obtain information from the Provider Portal in order to conduct the Services and that in doing so, it will be Accessing the Department's IT Systems.
- 17.2 The CTA Provider acknowledges that, during the Term of this Deed, it may also be given additional Access-to the Department's IT Systems for the purpose of conducting the Services or for any other purpose determined by the Department.
- 17.3 The CTA 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 17.
- 17.4 The Department may require that data relating to specific transactions must only be stored on the Department's IT Systems, and the CTA Provider must comply, and ensure that all Subcontractors comply, with any such requirement.
- 17.5 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 CTA Provider must comply with any such requirement.
- 17.6 The CTA Provider is responsible for all costs of meeting its obligations (as relevant) under this clause 17.

*Third Party Systems*

*Note: A 'Third Party System' includes an information technology system used by the CTA Provider or any Subcontractor to provide any Services or to Access the Department's IT Systems.*

- 17.7 The CTA Provider must:
- (a) advise the Department of any proposed use of any Third Party System to obtain information from the Provider Portal or otherwise 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;
  - (b) ensure that any Third Party System used:
    - (i) meets the minimum requirements of the Department, for obtaining information from the Provider Portal or otherwise Accessing the Department's IT Systems and for record keeping and program assurance purposes, 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) is built and assessed to meet the requirements of the Australian Government Australian Signals Directorate (ASD) Information Security Manual (ISM);
    - (iv) does not introduce or permit the introduction of Harmful Code into the Department's IT Systems;
    - (v) has secure logons 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; and
    - (vi) does not default answers to questions or input fields where the Department's IT Systems has no default setting; and

- (c) ensure that Records relating to the Services held in any Third Party System can be, and are, provided on request, to the Department and in an unadulterated form i.e. with no amendment to the Records.

17.8 The Department:

- (a) may make changes to the Department's IT Systems at any time, notwithstanding that such changes may affect the functioning of a Third Party System;
- (b) will provide reasonable information about those changes to the CTA Provider; and  
the CTA Provider:
  - (i) must, notwithstanding any such change, at its sole cost, ensure that all Third Party Systems are consistent with the Department's IT Systems at all times; and
  - (ii) agrees that the Department is not responsible for any loss, costs or legal liability of the CTA Provider arising from such changes.

*Third Party IT Providers*

17.9 The CTA Provider must:

- (a) not give Access to electronic Records relating to the Services, or any derivative thereof, to any Third Party IT Provider who has not entered into a Third Party IT Provider Deed with the Department, and only grant such Access in accordance with the terms of the relevant Third Party IT Provider Deed and any Guidelines;
- (b) in any contract with a Third Party IT Provider:
  - (i) provide that the Third Party IT Provider may only subcontract its obligations under that contract to another entity that has entered into a Third Party IT Provider 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 Provider Deed;
- (c) on receipt of any advice from the Department that it has terminated a relevant Third Party IT Provider Deed, terminate the CTA Provider's contract with the Third Party IT Provider and, at its own cost, promptly cease using the Third Party IT Provider; and
- (d) impose the obligations set out in this clause 17 on any Subcontractor Accessing electronic Records relating to the Services.

*Technical advice*

17.10 The CTA Provider must:

- (a) nominate Personnel to receive technical advice from the Department on the Department's IT Systems, including the Provider Portal, and to provide advice to the Department on technical issues arising from Accessing the Department's IT Systems, including the Provider Portal (**IT Contact**);
- (b) ensure that the IT Contact:
  - (i) disseminates technical advice to any Subcontractor and Personnel of the CTA 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 CTA 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*

- 17.11 The CTA Provider must comply, and ensure that its Subcontractors and Third Party IT Providers comply, with the Department's Security Policies and the Commonwealth's Cybersafety Policy, as relevant.
- 17.12 The CTA 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.
- 17.13 The CTA 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 their resolution.
- 17.14 Where the Department considers that the CTA Provider may be in breach of this clause, or there is a risk of such a breach, the Department may, at its absolute discretion, immediately suspend Access, or require the CTA 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 Provider;
  - (d) the CTA Provider; or
  - (e) any Third Party System,
- by providing Notice to the CTA Provider.
- 17.15 Where the Department determines that the CTA Provider is in breach of, or has previously breached, this clause 17, 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 Provider, Third Party System or the CTA Provider;
  - (b) applying bandwidth throttling measures in respect of all Access to the Department's IT Systems for any Personnel, Subcontractor, Third Party IT Provider, Third Party System or the CTA Provider;
  - (c) requiring the CTA Provider to obtain new logon IDs for any Personnel, Subcontractor or Third Party IT Provider and if so required, the CTA Provider must promptly obtain such new logons; or
  - (d) requiring the CTA Provider to prepare and implement an IT security plan to the Department's satisfaction, and if so required, the CTA Provider must do so within the timeframe required by the Department.
- 17.16 Any action taken by the Department under clauses 17.14 to 17.15 does not limit any other rights the Department has under this Deed, including pursuant to clause 34, or under the law.
- 17.17 If the Department gives Notice to the CTA Provider that Access to the Department's IT Systems is terminated for any particular Personnel, Subcontractor or Third Party IT Provider, the CTA 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*

17.18 For the purposes of clauses 17.19 to 17.22:

**'Clients'** means persons who may use the CTA 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 CTA Provider, the CTA 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 CTA Provider's staff regarding the risks of, and protection from, inappropriate or harmful on-line content.

17.19 The Commonwealth's Cybersafety Policy is that where an organisation is funded by the Commonwealth 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.

17.20 The CTA Provider must take Reasonable Steps to protect its Clients' cybersafety.

17.21 If the Department gives the CTA Provider Notice requiring it, the CTA Provider must provide the Department, within 10 Business Days of receiving the Notice, with evidence satisfactory to the Department that the CTA Provider has complied with the requirements of this Cybersafety Policy.

17.22 The CTA Provider agrees to include its obligations in relation to this Cybersafety Policy in all Subcontracts it enters into in relation to the Services.

## **18. Personal and Protected Information**

18.1 This clause 18 applies only where the CTA Provider deals with Personal Information for the purpose of performing its obligations under this Deed or assisting Employment Providers to provide services to the Department under their respective jobactive Deeds.

18.2 In this clause 18, the terms 'agency', 'APP Code', 'contracted service provider', 'eligible data breach', 'organisation' 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.

18.3 The CTA Provider acknowledges that it is a contracted service provider and agrees in respect of the conduct of any services under CTA Agreements with Employment Providers or 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 complying with its obligations under any CTA Agreements with Employment Providers or this Deed;
- (b) except where this clause 18 expressly requires the CTA 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 inquires made by the Privacy 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 Privacy Commissioner who has power to award compensation against the CTA 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 any contracts with Employment Providers or 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 CTA 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 Privacy Commissioner to the extent that they are consistent with the requirements of this clause 18;
- (i) not to transfer relevant Personal Information outside 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 Privacy Commissioner;
- (k) if the CTA Provider suspends or terminates Personnel:
  - (i) to remove any access that the Personnel has to any relevant Personal Information; and
  - (ii) to require that the Personnel returns to the CTA Provider or the Department any relevant Personal Information held in the Personnel's possession; and
- (l) to ensure that any of its Personnel who are required to deal with relevant Personal Information:
  - (i) are made aware of their obligations in this clause 18, including to undertake in writing to observe the APPs (or a registered APP code, where applicable); and
  - (ii) where required by the Department, undertake in writing to observe the APPs (or a registered APP code, where applicable).

18.4 The CTA 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 18 by any Personnel or Subcontractor;
- (b) that an eligible data breach in relation to Personal Information received, created or held by the CTA 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 CTA Provider by the Privacy Commissioner or by an individual claiming that their privacy has been interfered with.

18.5 The CTA 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*

18.6 Where one party Notifies the other party that an eligible data breach in relation to Personal Information received, created or held by the CTA Provider in the course of conducting the Services has or may have occurred, the CTA 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 Privacy Commissioner and notifying affected individuals about the eligible data breach were required); and

(d) take any other action as reasonably directed by the Department.

**19. Confidential Information**

19.1 Subject to this clause 19, the Parties must not, without each other's prior written approval, disclose any of each other's Confidential Information to a third party.

19.2 In giving written approval to disclosure, a Party may impose conditions as it thinks fit, and the other Party agrees to comply with the conditions.

19.3 The obligations on the Parties under this clause 19 will not be breached if information:

(a) is shared by the Department within the Department's organisation, 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 by a House or a Committee of the Parliament of the Commonwealth of Australia;

(d) is authorised or required by law or the rules of a stock exchange to be disclosed; or

(e) is in the public domain otherwise than due to a breach of this clause 19.

19.4 Nothing in this clause 19 limits the obligations of the CTA Provider under clause 18 [Personal and Protected Information] or clause 23 [Access to premises and Material].

**20. Records the CTA Provider must keep**

20.1 The CTA Provider must create and maintain full and accurate Records of the conduct of the Services under:

(a) the CTA Agreements; and

(b) this Deed,

including any Material specified in any Guidelines.

20.2 Without limiting clause 20.1, the CTA Provider must collect and maintain the following documentary evidence:

(a) records of Participant attendance;

(b) evidence of a Participant's completion of the core components for each CTA Element undertaken by the Participant, as described in the Statement of Requirements;

(c) a copy of the Career Pathway Assessment completed for each Participant who undertakes the Tailored Career Assistance Element;

(d) a copy of the Career Pathway Plan and Résumé, completed for each Participant who completes the Tailored Career Assistance Element;

(e) a copy of the Functional Digital Literacy Assessment completed for each Participant who undertakes the Functional Digital Literacy Element;

(f) survey information for evaluation purposes, as required by the Department; and

(g) a copy of the Privacy Notification and Consent Form completed for each Participant.

20.3 When requested by the Department, the CTA Provider must provide the Records, including relevant Records maintained by a Subcontractor, to the Department or the Department's nominee within the timeframe required by the Department.

20.4 The CTA Provider must store all Records created or maintained under clause 20.1, in accordance with the Department's Security Policies, any Guidelines issued by the Department and if relevant, its Privacy Act obligations.



- 20.5 The CTA Provider must maintain an up to date list of the Records held by it and make this list available to the Department on request.
- 20.6 Subject to clauses 18 [Personal and Protected Information] and 23 [Access to premises and Material], the CTA Provider must ensure that copying of, use of, and access to Records containing Personal Information or Sensitive Information is restricted to Personnel directly assisting the CTA Provider with the provision of the Services.
- 20.7 Subject to clause 18 [Personal and Protected Information], the CTA Provider must not, without the prior written approval of the Department, transfer, or be a party to an arrangement for the transfer of, custody of the Records created or maintained under clause 20.1:
- (a) outside Australia; or
  - (b) to any person, entity or organisation other than to an Employment Provider or the Department.
- 20.8 Subject to clause 18 [Personal and Protected Information], all Records created or maintained under clause 20.1 must be retained by the CTA Provider for a period of no less than seven years after the creation of the Record, unless otherwise specified in any Guidelines or as directed by the Department.
- 20.9 At the Completion Date or early termination of this Deed, the CTA Provider must manage all Records created or maintained under clause 20.1 in accordance with any Guidelines or as otherwise directed by the Department.
- 20.10 The CTA Provider must:
- (a) not destroy or otherwise dispose of Records created or maintained under clause 20.1, except in accordance with clause 20.8 and any Guidelines or as otherwise directed by the Department; and
  - (b) provide a list to the Department of any Records that have been destroyed, as directed by the Department.
- 21. Access by individuals to Records held by the CTA Provider**
- 21.1 Where an individual requests access to Records containing information falling within the following categories:
- (a) records also containing information about another person;
  - (b) medical/psychiatric records (other than those actually supplied by the individual, or where it is clear that the individual has a copy or has previously sighted a copy of the records);
  - (c) psychological records; and
  - (d) information provided by other third parties,
- the request must be directed to the Department for consideration and the CTA Provider must comply with any direction given by the Department in relation to the provision, or refusal, of access to Records held by it to the individual.
- 22. Access to documents for the purposes of the *Freedom of Information Act 1982 (Cth)***
- 22.1 In this clause 22, 'document' has the same meaning as in the *Freedom of Information Act 1982 (Cth)*.
- 22.2 The CTA Provider agrees that:
- (a) where the Department has received a request for access to a document created by, or in the possession of, the CTA Provider or any Subcontractor, the Department may, at any time by Notice, require the CTA Provider to provide the document to the Department and the CTA Provider must, at no cost to the Department, promptly comply with the Notice;
  - (b) the CTA 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 CTA Provider must include provisions in any Subcontract relating to the performance of this Deed that will enable the CTA Provider to comply with its obligations under this clause 22.

**23. Access to premises and Material**

23.1 The CTA Provider agrees to:

- (a) give any Department Employee or Department nominee access to the CTA Provider's premises and any premises at which the CTA Provider is conducting or has conducted the Services; and
- (b) permit those persons to inspect and take copies of any Material relevant to the:
  - (i) conduct of the Services; or
  - (ii) the performance of this Deed.

23.2 The rights of the Department referred to in clause 23.1 are subject to the:

- (a) provision of reasonable prior notice to the CTA Provider;
- (b) CTA Provider's reasonable security procedures; and
- (c) if appropriate, the execution of a deed of confidentiality by the persons to whom access is given.

*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).*

**24. General reporting**

24.1 The CTA Provider must provide, as required by the Department:

- (a) specific Reports on:
  - (i) the Services, including on the results of internal and external audits of payment claims and claim processes, action taken to address performance issues raised by the Department, and training provided to Personnel and Subcontractors;
  - (ii) the performance of Personnel undertaking the role of Facilitators; and
  - (iii) the financial status of the CTA Provider; and
- (b) a suitably qualified, informed and authorised representative at any meeting arranged by the Department, in order to discuss and accurately answer questions relating to the Reports referred to in clause 24.1(a) or otherwise required under this Deed.

24.2 The CTA Provider must also provide any other Reports that the Department may reasonably require, within the timeframes requested by the Department.

24.3 The CTA Provider must provide:

- (a) all Reports in a form acceptable to the Department; and
- (b) if, in the Department's opinion, either the form or the content of a Report is not satisfactory, the CTA Provider must submit a revised Report to the Department's satisfaction within 10 Business Days of the Department giving Notice to the CTA Provider to do so.

**25. Indemnity**

25.1 The CTA 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 the CTA Provider or a Subcontractor in connection with this Deed or a CTA Agreement, where there was fault on the part of the person whose conduct gave rise to that cost, liability, loss, damage, or expense; or
  - (d) any breach by the CTA Provider of this Deed or a CTA Agreement.
- 25.2 The liability of the CTA Provider to indemnify the Department under this clause 25 will be reduced proportionately to the extent that fault on the Department's part contributed to the relevant cost, loss, damage, expense, or liability.
- 25.3 The Department's right to be indemnified under this clause 25 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.
- 25.4 In this clause 25, 'fault' means any negligent or unlawful act or omission or wilful misconduct, including fraud.

**26. Intellectual Property**

*Use of Commonwealth Material*

- 26.1 Ownership of all Commonwealth Material, including Intellectual Property rights in that Material, remains vested at all times in the Department.
- 26.2 Subject to clause 26.3, the Department grants (or will procure) a royalty-free, non-exclusive licence for the CTA Provider to use, copy, and reproduce the Commonwealth Material for the purposes of this Deed.
- 26.3 The CTA 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 available at [http://www.dpmc.gov.au/sites/default/files/publications/Commonwealth\\_Coat\\_of\\_Arms\\_Information\\_and\\_Guidelines.pdf](http://www.dpmc.gov.au/sites/default/files/publications/Commonwealth_Coat_of_Arms_Information_and_Guidelines.pdf)

*Ownership and licensing of Intellectual Property Rights in Deed Material and Existing Material*

- 26.4 Subject to clause 26.7, and without affecting the position between the CTA Provider and a third party, the ownership of Intellectual Property Rights in the Deed Material vest in the CTA Provider.
- 26.5 Clause 26.4 does not affect the ownership of Intellectual Property Rights in:
- (a) any Commonwealth Material incorporated into Deed Material; or
  - (b) any Existing Material.
- 26.6 The CTA Provider will grant (or will procure for) the Department a permanent, irrevocable, royalty-free, world-wide, non-exclusive licence (including a right of sub-licence) to use, reproduce, adapt, modify, perform, distribute, communicate and exploit the Deed Material for any Commonwealth purpose.
- 26.7 The CTA Provider grants to the Department (or must arrange for the grant to the Department of) a permanent, irrevocable, free, worldwide, non-exclusive licence (including a right of sub-licence) to use, reproduce, adapt, modify, perform, distribute, and communicate the Intellectual Property rights in the Existing Material, with the exception of commercial off-the-shelf software, for any Commonwealth purpose.
- 26.8 If the CTA Provider becomes aware that the Department will require a licence for commercial off-the-shelf software in order to exercise its rights under the licences granted under this clause 26, the CTA Provider must Notify the Department immediately and provide the Department with all the necessary details to obtain a licence over such software including the name, version and manufacturer of the software.

- 26.9 The CTA Provider agrees that the licences granted in clauses 26.6 and 26.7 includes a right for the Department to licence the Deed Material and Existing Material to the public under a CCBY Licence [see <http://creativecommons.org/licenses/by/3.0/au/deed.en>].
- 26.10 The CTA Provider must, on the Department's request, create, sign, execute or otherwise deal with any document necessary or desirable to give effect to this clause 26.
- 26.11 The CTA Provider warrants that it is entitled, or will be entitled at the relevant time, to deal with the Intellectual Property in the Deed Material in the manner provided for in this clause 26.
- 26.12 If requested by the Department, the CTA Provider must provide to the Department a copy of the Deed Material in the form requested by the Department.

## **27. Insurance**

- 27.1 In connection with compliance with its obligations under this Deed, the CTA Provider must effect and maintain, or cause to be effected and maintained, valid and enforceable insurance policies for:
- (a) public liability which must provide coverage in respect of each claim for at least \$10 million; and
  - (b) 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); and
    - (ii) compulsory third party motor vehicle insurance for all registrable vehicles used in the performance of this Deed (including transporting Participants in the CTA Provider's or the CTA Provider's employees' vehicles); and
  - (c) any other insurance cover (including workers compensation insurance) required by law.
- 27.2 Unless otherwise agreed by the Department in writing, all insurances required under this clause 27 must be obtained from an insurer authorised by the Australian Prudential Regulation Authority.
- 27.3 In relation to each insurance policy relied upon by the CTA Provider in compliance with their obligations to effect and maintain, or cause to be effected and maintained, insurances as required by this clause 27, the CTA Provider must provide to the Department proof of that insurance in the form of a certificate of currency, at any time that the Department requests.
- 27.4 The CTA Provider must ensure that all Subcontractors retained by it to perform work in connection with this Deed (including work under any CTA Agreement) are covered by insurance of the types specified in this clause 27, as appropriate (including as to limits of indemnity) given the nature of the work to be performed by each such Subcontractor.

## **28. Group Respondents**

- 28.1 If the CTA Provider is a Group Respondent, the CTA Provider:
- (a) agrees that its members are as specified in item 3 of Schedule 1;
  - (b) warrants that each of its members have given their authority to the member named in the Particulars as Lead Member to negotiate, bind and act on that member's behalf in relation to this Deed and any variations thereto; and

- (c) must not change its membership without the Department agreeing in writing, and the CTA Provider complying with any direction from the Department in relation to the change.

**29. External administration**

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

- (a) any notice requiring the CTA Provider to show cause why the CTA Provider should not come under any form of external administration referred to in clause 29.1(b);
- (b) any record of a decision of the CTA Provider, notice or orders that the CTA 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 CTA Provider's winding up;
- (e) any decisions and orders of any court or tribunal made against the CTA Provider, or involving the CTA Provider, including an order for the CTA 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 CTA Provider's winding up; or
- (g) being an individual, any notice that the CTA Provider has become bankrupt or has entered into a scheme of arrangement with his or her creditors.

29.2 The CTA Provider must, immediately upon the event happening, give Notice to the Department that the CTA Provider:

- (a) has decided to place itself, or has otherwise come under, any one of the forms of external administration, referred to in clause 29.1(b); or
- (b) is ceasing to carry on business.

**30. Subcontracting**

30.1 The CTA Provider must not, without the Department's prior written approval:

- (a) enter into a Subcontract for the performance of any of its obligations under this Deed;
- (b) terminate a Subcontractor who has been approved by the Department; or
- (c) replace an approved Subcontractor with another Subcontractor.

30.2 The CTA Provider must 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).

30.3 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 4 of Schedule 1.

30.4 The CTA Provider must ensure that any arrangement it enters into with a Subcontractor is in writing.

30.5 The CTA Provider is liable to the Department for all losses caused under, or in connection with, this Deed by the acts or omissions of any Subcontractor whether or not the relevant entity is a current Subcontractor.

- 30.6 The CTA Provider must ensure that every Subcontractor is aware of all terms and conditions of this Deed relevant to the Subcontractor's part in the performance of this Deed or the CTA Provider's provision of the services under CTA Agreements.
- 30.7 The CTA Provider must, in any Subcontract, reserve a right of termination to take account of the Department's right of termination under clause 34 and the Department's right of revocation of approval of a Subcontractor under clause 30.9, and the CTA Provider must, where appropriate, make use of that right in the Subcontract in the event of a termination, or revocation of approval of the Subcontractor, by the Department.
- 30.8 The CTA Provider must, in any Subcontract, bind the Subcontractor, with respect to the Department, to all relevant terms and conditions of this Deed including clauses 16 [Security], 18 [Personal and Protected Information], 19 [Confidential Information], 20 [Records the CTA Provider must keep], 23 [Access to premises and Material], 27 [Insurance], 36 [Negation of employment, partnership and agency], and 43 [Compliance with laws and government policies].
- 30.9 The Department may revoke its approval of a Subcontractor on any reasonable ground by giving Notice to the CTA Provider, and, on receipt of the Notice, the CTA Provider must, at its own cost, promptly cease using that Subcontractor and arrange for its replacement by Personnel or another Subcontractor acceptable to, and approved by, the Department.

**31. Gap filling and additional Services**

- 31.1 The Department and the CTA Provider may agree to:
- (a) the provision of additional services by the CTA Provider, on the same terms as specified in this Deed, at the times requested by the Department for the purposes of filling gaps identified by the Department in CTA; and
  - (b) the provision of other employment services or employment related services by the CTA Provider to the Department, including applicable terms and conditions.

**32. Acknowledgement and promotion**

- 32.1 The CTA Provider must:
- (a) in all publications, and in all promotional, publicity and advertising materials or activities of any type undertaken by, or on behalf of, the CTA Provider relating to the Services or this Deed:
    - (i) comply with any promotion and style guidelines issued by the Department;
    - (ii) use badging and signage in accordance with any Guidelines; and
    - (iii) acknowledge the financial and other support the CTA Provider has received from the Commonwealth, in the manner consistent with any Guidelines; and
  - (b) deliver to the Department (at the Department's request and at the CTA Provider's own cost) copies of all promotional, publicity and advertising materials that the CTA Provider has developed for the purposes of this Deed.

- 32.2 The CTA Provider must market and promote the Services, as required by the Department, and deal with enquiries relating to the CTA Provider's provision of the Services, in accordance with any Guidelines.

**33. Assignment and novation**

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

**34. Termination and reduction**

*Termination or reduction for convenience by the Department*

- 34.1 The Department may terminate this Deed, or reduce the scope of the CTA Provider's participation on the CTA Trial Panel, for any reason on 30 days' Notice to the CTA Provider.

*Termination for Default by the Department*

- 34.2 The Department may immediately terminate this Deed by giving Notice to the CTA Provider if any of the following events or matters arises:
- (a) the CTA Provider breaches a warranty provided for in clause 4;
  - (b) the CTA Provider is found to have provided false or misleading information to the Department in respect to any aspect of its participation on the CTA Trial Panel;
  - (c) the CTA Provider is, in the Department's opinion, no longer able to satisfy one or more Conditions for Ongoing Participation;
  - (d) the CTA Provider, in the Department's opinion, no longer has adequate expertise, capacity and capability to provide either of the CTA Elements;
  - (e) the CTA 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);
  - (f) the CTA Provider is in breach of any of its obligations under this Deed that are capable of being rectified, and does not rectify the omission or breach within 10 Business Days, or such other period specified by the Department, of receiving a Notice from the Department to do so;
  - (g) to the extent permitted by law, any event referred to in clause 29 occurs, other than an event under clause 29.1(c); or
  - (h) the Department becomes expressly entitled to terminate this Deed under any other provision of this Deed.

*Termination or reduction by the CTA Provider*

- 34.3 The CTA Provider may:
- (a) terminate this Deed; or
  - (b) reduce the scope of its participation on the CTA Trial Panel,
- on provision of 30 days' Notice to the Department.

*Effect of termination and reduction*

- 34.4 Where this Deed has been terminated in accordance with this clause 34, the CTA Provider must not accept or action any new Referrals, or enter into a new CTA Agreement or an extension of an existing CTA Agreement with an Employment Provider to deliver CTA Elements, after the date of termination.
- 34.5 Where the scope of the CTA Provider's participation on the CTA Trial Panel is reduced, the CTA Provider must not accept or action any new Referrals, or enter into a new CTA Agreement or an extension of an existing CTA Agreement with an Employment Provider to deliver CTA Elements, after the date of reduction, if the Referral or CTA Agreement relates to aspects of the participation from which the CTA Provider has been removed.

*Note: If clause 34.4 or clause 34.5 applies, a CTA Provider that is the same legal entity as a Referring Employment Provider will be prohibited from accepting or actioning any new Referrals from itself in the relevant circumstances set out in that clause.*

- 34.6 Upon Notice of termination:
- (a) the Department will promptly remove the CTA Provider from the CTA Trial Panel; and
  - (b) subject to clause 20.10, the CTA Provider must destroy or otherwise dispose of any Material or Records as directed by the Department.

34.7 Upon Notice of reduction in scope, the Department will promptly modify the CTA Provider's participation on the CTA Trial Panel in accordance with the Notice.

**35. Survival**

35.1 The termination or expiry of this Deed for any reason does not extinguish or otherwise affect the operation of clauses 14, 16, 18, 19, 20, 21, 22, 23, 25, 26, 27, 35, 37, 40 and 42 of this Deed and any provisions, other than those aforementioned, that are expressly specified as surviving, or by implication from their nature are intended to continue.

35.2 Clause 23 of this Deed survives for seven years from the expiry or earlier termination of this Deed.

**36. Negation of employment, partnership and agency**

36.1 The CTA Provider, its Personnel, partners, agents and Subcontractors are not, by virtue of this Deed or any Subcontract, or for any purpose, deemed to be, Department Employees, partners, or agents or otherwise able to bind or represent the Commonwealth.

36.2 Subject to this Deed, the CTA Provider must not represent itself, and must ensure that its Personnel, partners, agents and Subcontractors do not represent themselves, as being Department Employees, partners, or agents or as otherwise able to bind or represent the Commonwealth.

**37. Waiver**

37.1 If either Party does not exercise (or delays in exercising) any rights under this Deed, that failure or delay does not operate as a waiver of those rights.

37.2 A single or partial exercise by either Party of any of its rights under this Deed does not prevent the further exercise of any right.

37.3 Waiver of any provision of, or right under, this Deed:

- (a) must be in writing signed by the Party entitled to the benefit of that provision or right; and
- (b) is effective only to the extent set out in the written waiver.

37.4 In this clause 37, 'rights' means rights provided by this Deed, under statute, at law or in equity.

**38. Severance**

38.1 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.

**39. Entire contract**

39.1 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.

**40. Variation of Deed**

40.1 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.

**41. Applicable law and jurisdiction**

41.1 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.

41.2 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.

**42. Liability of the CTA Provider to the Department**

*Joint and several liability*

42.1 To the extent permitted by law, where:



- (a) more than one Party is a signatory to this Deed as CTA Provider – each of those Parties;
- (b) the CTA Provider is a partnership – each partner; or
- (c) the CTA 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 CTA Provider under this Deed; and
- (e) all losses caused by any Subcontractor engaged for the purpose of this Deed.

*Proportionate liability*

42.2 The Parties agree that, to the extent permitted by law:

- (a) the operation of Part 4 of the *Civil Liability Act 2002* (NSW) is excluded in relation to all and any 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 41, this clause 42.2 applies to all and any rights, obligations and liabilities under, or in connection with, this Deed whether such rights, obligations or liabilities arise in the state of New South Wales or elsewhere in Australia.

*Note: Clause 41 provides that this Deed is to be construed in accordance with, and any other matter related to it is to be governed by, the laws of the State of New South Wales.*

**43. Compliance with laws and government policies**

43.1 The CTA Provider must, in carrying out its obligations under this Deed, comply with:

- (a) all relevant statutes, regulations, by-laws and requirements of any Commonwealth, state, territory or local authority, including relevant WHS Laws and industrial relations legislation and any legislation relating to the licensing of employment agents; and
- (b) any Commonwealth policies Notified by the Department to the CTA Provider in writing, referred to or made available by the Department to the CTA Provider (including by reference to an internet site), including any listed in this Deed.

43.2 The CTA Provider must, when using the Department’s premises or facilities, comply with all reasonable directions and procedures relating to work health, safety and security in effect at those premises or in regard to those facilities, as advised by the Department or as might reasonably be inferred from the use to which the premises or facilities are being put.

43.3 Clauses 43.4 to 43.5 apply only to the extent that the CTA Provider is a ‘relevant employer’ for the purposes of the *Workplace Gender Equality Act 2012 (Cth)* (**‘the WGE Act’**).

43.4 The CTA Provider must:

- (a) Notify the Department as soon as practicable if the CTA 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 CTA Provider by the Commonwealth Workplace Gender Equality Agency within 18 months from the Deed Commencement Date, and following this, annually, to the Department.

43.5 Compliance with the WGE Act does not relieve the CTA Provider from its responsibility to comply with its other obligations under this Deed.

**44. Work health and safety**

44.1 The CTA Provider must at all times:

- (a) ensure that the Services are carried out in a safe manner;

- (b) comply with any reasonable instruction from the Department relating to work health and safety and any directions issued by any person having authority under the WHS Laws to do so;
- (c) communicate, consult and coordinate with the Department in relation to work health and safety matters arising from the Services (including meeting with the Department as required by the Department and communicating any issues or concerns, or any specific requirements applying to the Services under or arising from the WHS Laws, as soon as practicable);
- (d) if the CTA 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;
  - (ii) provide to the Department, within such time as the Department specifies, 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; and
  - (iii) within 24 hours of becoming aware of such circumstances, inform the Department of the full details of:
    - (A) any suspected or actual contravention of the WHS Laws relating to the Services;
    - (B) 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;
    - (C) any proceedings against the CTA Provider, or any decision or request by the Regulator given to the CTA Provider, under the WHS Laws; and
    - (D) any cessation or direction to cease work relating to the Services, due to unsafe work, immediately upon the CTA Provider being informed of any such cessation or direction; and
- (e) provide the Department with copies of all notices and correspondence issued to the CTA Provider by any person under the WHS Laws, within 24 hours of receiving any such notice or correspondence.

44.2 The CTA 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 CTA Provider's work health and safety performance, arising out of, or in respect of, the Services.

#### **45. Incidents**

- 45.1 The CTA Provider must Notify the Department and the relevant Employment Provider as soon as possible, and within 24 hours of any incident involving the Services, including, but not limited to, any incident occurring during an Inbound Employer Visit or Outbound Employer Visit, including:
- (a) any accident, injury or death occurring during, or as a result of, the Services, 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.
- 45.2 Where an incident referred to in clause 45.1 is an accident, or involves injury or death, the CTA Provider must also, as soon as possible, and within 24 hours:
- (a) Notify the Department's insurance broker as specified in any Guidelines;

- (b) submit an incident report to the Department's insurance broker (in the form required by the Department's insurance broker as specified in any Guidelines) giving full details of the accident, injury or death; and
  - (c) provide a copy of the incident report to the Account Manager.
- 45.3 The CTA Provider must cooperate fully with the Department, the relevant Employment Provider, and the Department's insurance broker if required, in relation to any incident Notified by the CTA Provider in accordance with clause 45.1 including, without limitation, by providing any information about the incident sought by the Department, the relevant Employment Provider or the Department's insurance broker.
- 45.4 The CTA 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.
- 46. Supervision of Participants**
- 46.1 The CTA Provider must, in accordance with any Guidelines:
- (a) ensure that it, or where relevant each Employer, provides adequate and appropriate Supervision for Participants engaged in the Services, so as to ensure that relevant Participants are undertaking appropriate tasks and operating in a healthy and safe environment;
  - (b) where the Participants are Vulnerable People, or Vulnerable People are otherwise present during the provision of the Services, ensure that the Supervision provided is continuous over the entire duration of the relevant Services;
  - (c) where the Participants are not Vulnerable People, or Vulnerable People are not otherwise present during the provision of the Services, make an assessment of whether or not the Supervision provided should be continuous, having regard to:
    - (i) the nature of the activities to be undertaken by the Participants;
    - (ii) the potential Participants;
    - (iii) any risks identified in the relevant risk assessment (if relevant); and
    - (iv) the risks of the Participants not being continuously Supervised; and
  - (d) record, or require the relevant Employer to record, the relevant Supervisor's attendance and provide copies of those Records to the Department on request.
- 46.2 The CTA Provider must ensure that all relevant Personnel and Supervisors:
- (a) are fit and proper persons to be involved in the Services, including the Outbound Employer Visits;
  - (b) have an appropriate level of skill/knowledge, training and/or experience in:
    - (i) the part of the Services or each Outbound Employer Visit 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 12 and have met any additional statutory requirements (including under state and territory law), prior to being given responsibility for the Supervision of Participants.
- 46.3 The Department may give Notice, on reasonable grounds related to the performance of the Services, including the Outbound Employer Visits, requiring the CTA Provider to remove, or ensure the removal of, a Supervisor from work on the Services, including the Outbound Employer Visits.

- 46.4 Where the Department gives Notice under clause 46.3, the CTA Provider must, at its own cost, promptly arrange for the removal of such a Supervisor from work on the Services, including an Outbound Employer Visit and their replacement with one or more Supervisors acceptable to the Department.
- 46.5 The CTA Provider must ensure that each Supervisor, whether engaged by the CTA Provider or engaged by an Employer hosting an Outbound Employer Visit, is required to notify the CTA Provider:
- (a) of a Participant's non-attendance in relation to their participation in the Services, including non-attendance at all relevant Outbound Employer Visits; and
  - (b) of any other non-compliance by a Participant in relation to their participation in the Services, as soon as practicable, but no later than at the end of the relevant Business Day.
- 46.6 All Supervisors who:
- (a) are contracted by the CTA Provider to provide Supervision of Participants; and
  - (b) are not employees of the CTA Provider,
- are deemed to be approved Subcontractors for the purposes of clause 30.1.
- 47. Conflict of interest**
- 47.1 The CTA 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.
- 47.2 The CTA Provider must not during the Term of this Deed enter into any arrangement, scheme or contract, however described, which may cause a Conflict in the performance of its obligations under this Deed.
- 47.3 If, during the Term of this Deed, a Conflict arises, or is likely to arise, the CTA Provider must:
- (a) immediately Notify the Department of the Conflict and the steps that the CTA Provider proposes to take to resolve or otherwise deal with the Conflict;
  - (b) make full disclosure to the Department of all relevant information relating to the Conflict; and
  - (c) take such steps as the Department may reasonably require to resolve or otherwise deal with the Conflict.
- 47.4 If the CTA Provider:
- (a) fails to Notify the Department in accordance with clause 47.3(a); or
  - (b) is unable or unwilling to resolve or deal with the Conflict as reasonably required by the Department,
- the Department may immediately terminate this Deed under clause 34.2.
- 48. Notices**
- 48.1 A Party giving Notice or Notifying under this Deed must do so in writing, by facsimile transmission or by email, addressed to the Account Manager or Contact Person, as relevant, and if:
- (a) in writing, the Notice must be hand delivered or sent by pre-paid post to the street address;
  - (b) by facsimile transmission, the Notice must be sent to the facsimile number; and
  - (c) by email, the Notice must be sent to the email address of the Account Manager or Contact Person, as relevant.
- 48.2 A Notice given in accordance with clause 48.1 is taken to be received:
- (a) if hand delivered, on delivery;

- (b) if sent by pre-paid post, five Business Days after the date of posting, unless it has been received earlier;
  - (c) if sent by facsimile transmission, upon receipt by the sender of a facsimile confirmation receipt; and
  - (d) if sent by email, upon actual receipt by the addressee.
- 48.3 A Notice received after 5.00 pm, or on a day that is not a Business Day in the place of receipt, is deemed to be received on the next Business Day in that place.
- 48.4 For the purposes of this clause 48, the Account Manager's and the Contact Person's address details are as specified in items 1 and 2 of Schedule 1 respectively.

## 49. Definitions and Interpretation

### 49.1 Definitions

In this Deed:

**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.

**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.

**Career Pathway Assessment** means the assessment described in item 8.4(a) of the Statement of Requirements.

**Career Pathway Plan** means a plan which outlines the steps the Participant will need to take to pursue employment opportunities based on their transferable skills and the local labour market.

**Career Transition Assistance** or **CTA** means the component of the Australian Government's Mature Age Employment Package intended to provide mature age job seekers with targeted assistance to assess their current skills, explore suitable occupations, research local labour markets and refresh or build on their IT skills. During the Term of this Deed, CTA is open to all job seekers aged 50 years and over and who are registered with an Employment Provider in one of the CTA Trial Regions. For the purposes of the jobactive Deed, CTA will be an approved Activity and job seekers who have an Annual Activity Requirement (AAR) will fully meet their AAR for the duration of their participation in CTA.

**Child** or **Children** means a person, or persons, under the age of 18 years.

**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: <https://www.dpmc.gov.au/resource-centre/government/commonwealth-coat-arms-information-and-guidelines>.

**Commonwealth Material** means any Material provided by the Department to an Employment Provider or the CTA 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 an Employment Provider or the CTA 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.

**Completion Date** means the earlier of:

- (a) the date set out in clause 1.1; and
- (b) the date this Deed is terminated under clause 34.

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

**Conditions for Ongoing Participation** means the conditions set out in clause 7 of this Deed.

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

**Conflict** refers to a conflict of interest, or risk of a conflict of interest, or an apparent conflict of interest arising through the CTA Provider engaging in any activity or obtaining any interest that may interfere with or restrict the CTA Provider in delivering CTA and in complying with its obligations under this Deed.

**Contact** means a meeting between the CTA Provider and a Participant, as described in item 7 of the Statement of Requirements.

**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 CTA Provider under this Deed and accept any request or direction in relation to the Services.

**CTA Agreement** means a contract between the CTA Provider and an Employment Provider under which the CTA Provider will deliver one or both CTA Elements, incorporating those terms specified in clause 3.2(d).

**CTA Element** means the Tailored Career Assistance Element or the Functional Digital Literacy Element.

**CTA Provider** means the services provider contracted under this Deed and includes, as relevant, its Personnel, successors and assigns, and any constituent entities of the Party's organisation.

**CTA Trial** means the trial of CTA to be delivered in the CTA Trial Regions during the Term of this Deed.

**CTA Trial Regions** means the following five Employment Regions:

- (a) Ballarat, Victoria;
- (b) Somerset, Queensland;
- (c) Central West, New South Wales;
- (d) Adelaide South, South Australia; and
- (e) Perth North, Western Australia.

**CTA Trial Panel** means the panel of CTA Providers established in accordance with the RFP, who may be engaged by Employment Providers to deliver CTA Elements under a CTA Agreement.

**Cybersafety Policy** means the Commonwealth policy of that name as specified at clauses 17.18 to 17.22.

**Deed** means this document, as varied or extended by the Parties from time to time in accordance with this Deed, and includes other documents incorporated by reference.

**Deed Commencement Date** means the later of 2 July 2018 and 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).

**Department** means the Commonwealth Department of Jobs and Small 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 CTA 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 CTA Provider, delivered as web-browser applications optimised for Internet Explorer 11, and through which information is exchanged between the CTA Provider, Subcontractors, Australian Government Department of Human Services and the Department in relation to the Services.

**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 *Department of Employment Security Policy for External Service Providers and Users* and any other security policies Notified by the Department from time to time.

**Employer** means an entity that has the legal capacity to enter into a contract of employment with a Participant but does not include the CTA Provider.

**Employment Provider** means any entity contracted by the Commonwealth to provide Employment Provider Services under the jobactive Deed. During the CTA Trial, only Employment Providers delivering services in one of the CTA Trial Regions will be eligible to refer jobseekers to Services.

**Employment Services Tip off Line** means a telephone and email service, developed primarily for current and former employees of Employment 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 Employment 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, including the *Employment Services System and Employment and Community Services Network*.

**Facilitator** means a person who holds a recognised qualification in the career, professional development and/or coaching sector and who is specified in item 6 of Schedule 1 or has otherwise been approved by the Department to deliver a CTA Element in accordance with clause 11.2.

**Functional Digital Literacy Assessment** means the assessment described in item 3.2(b) of the Statement of Requirements.

**Functional Digital Literacy Element** means a career assistance service that meets the requirements specified in Section 3 of the Statement of Requirements.

**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 Services under this Deed as specified in item 3 of Schedule 1, 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.

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

**Harmful Code** means any software or code that is designed to infiltrate a computer, system, network or other infrastructure without an end user's informed consent, such as an attack of any sort including: distributed denial of service, malware, virus, trojans, worms, spam, phishing e-mail, backdoors, botspyware, adware, diallers, toolkits, keyloggers, clickjackers, web bug, exploits, cracking tools, and hacking tools.

**Inbound Employer Visit** means a visit by an Employer to the CTA Provider's premises for the purpose of providing Participants with an insight into the tasks and duties of a particular occupation or industry.

**Indigenous** 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.

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

**Initial Meeting** means a meeting between a Facilitator and Participant in accordance with item 3 of the Statement of Requirements.

**jobactive Deed 2015-2020 or jobactive Deed** means the deed of that name entered into between the Department and an Employment Provider, as amended from time to time.

**Joint Charter of Deed Management** means the charter at Annexure A which embodies the commitment by the Department and CTA Providers to work cooperatively to achieve shared goals and outcomes in the delivery of the CTA Trial.

**Key Performance Indicators** means the key performance indicators described in Schedule 3.

**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.

**Non-regional CTA Trial Region** means each of the following CTA Trial Regions:

- (a) Somerset, Queensland;
- (b) Perth North, Western Australia; and
- (c) Adelaide South, South Australia.

**Notice** means a written notice in accordance with clause 48; and 'Notify', 'Notified' and 'Notification' have the same meaning.

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

**Outbound Employer Visit** means a visit by Participants to an Employer's premises, arranged by the CTA Provider, for the purpose of providing those Participants with an insight into the tasks and duties of a particular occupation or industry.

**Participant** means a job seeker who has been referred to the CTA Provider to undertake a CTA Element.

**Particulars** means the document of that name by which the Parties execute this Deed.

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

**Performance Period** means each consecutive six month period during the Term of this Deed, unless otherwise advised by the Department.



**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 any natural person who is an officer, employee, volunteer or professional advisor of the CTA Provider or of any of its Subcontractors.

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

**Privacy Commissioner** means the person appointed under section 14 of the *Australian Information Commissioner Act 2010* as the Privacy Commissioner.

**Privacy Notification and Consent Form** means the form or forms of that name as issued by the Department.

**Program Assurance Strategy** means the strategy developed by the Department to monitor the implementation and effectiveness of the CTA.

**Proposal** means the proposal submitted by the CTA Provider to the Department in response to the RFP.

**Provider IT System** means an information technology system used by the CTA Provider or any Subcontractor to provide any Services or to Access the Department's IT Systems.

**Provider Portal** means the Department's internet portal at <https://ecsnaccess.gov.au/sites/secsiteportal/Pages/HomePage.aspx> that includes program and contractual information to be accessed by employment services providers, including the CTA Provider.

**Records** means documents, information and data stored by any means and all copies and extracts of the same, and includes Deed Records, Commonwealth Records and Auditor Records.

**Referral** means the referral of a person by an Employment Provider to a CTA Provider to undertake one or both CTA Elements (and 'Refer' and 'Referred' have the corresponding meaning).

**Regional CTA Trial Region** means each of the following CTA Trial Regions:

- (a) Ballarat, Victoria; and
- (b) Central West, New South Wales.

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

**Related Entity** means a related body corporate as defined in the *Corporations Act 2001* (Cth).

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

**Résumé** means a one- to two-page document that lists the Participant's work experience, education and skills and that is prepared in a form suitable for submission to an Employer.

**RFP** means the Department's Request for Proposal RFP CTA Trial 2018-2020 seeking proposals from potential suppliers to be included on the CTA Trial Panel.

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

- (a) for ensuring the CTA 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.

**Sensitive Information** has the meaning given to the term 'sensitive information' in the Privacy Act.

**Service Delivery Plan** means a plan developed by the CTA Provider in accordance with clause 8.1.

**Services** means the services that the CTA Provider is contracted to perform and provide under this Deed.

**Site** means the one or more physical locations specified in item 5 of Schedule 1.

**Statement of Applicability** or '**SOA**' means the document of that name that specifies the accreditation requirements for Provider IT Systems, issued by the Department.

**Statement of Requirements** means Schedule 2 to this Deed.

**Subcontract** means a contract between the CTA Provider and a Subcontractor in relation to the performance of the CTA Provider's obligations under this Deed or a CTA Agreement.

**Subcontractor** means an entity, including a Related Entity of the CTA Provider, that is contracted or otherwise engaged by the CTA Provider in relation to the performance of the CTA Provider's obligations under this Deed.

**Supervision** means the action or process of directly monitoring and managing Participants participating in a CTA Element or in any Outbound Employer Visit.

**Supervisor** means a person who is engaged or employed by the CTA Provider or by an Employer hosting an Outbound Employer Visit and provides Supervision of Participants engaged in a CTA Element or in any Outbound Employer Visit.

**Suspension** means the suspension of the CTA Provider by the Department from delivering CTA Elements as a member of the CTA Trial Panel, in accordance with clause 6.5, and **Suspend** and **Suspended** have an equivalent meaning.

**Tailored Career Assistance Element** means a career assistance service that meets the requirements specified in Section 2 of the Statement of Requirements.

**Term of this Deed** refers to the period described in clause 1.1.

**Third Party IT Provider** means an entity contracted by the CTA Provider to provide information technology services to the CTA Provider for the purposes of providing 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 Provider's organisation. To avoid doubt, a Third Party IT Provider includes a cloud services provider, an infrastructure as a service provider, a software as a service provider, a platform as a service provider, an applications management provider, and also any provider of infrastructure (including servers and network hardware) used for the purpose of Accessing or storing Records.

**Third Party IT Provider Deed** means an agreement between a Third Party IT Provider and the Department in the terms and form as specified at <http://www.employment.gov.au/employment-services-procurement-information>.

**Third Party System** means

- (a) a Provider IT System; or
- (b) an information technology system of a Third Party IT Provider used by the CTA Provider or any Subcontractor to provide any Services or to Access the Department's IT Systems.

**Vulnerable People** means Children and people who are elderly, disabled or otherwise vulnerable.

**Warm Handover Meeting** means a meeting between a Facilitator, a Participant and the Participant's Employment Provider in accordance with item 6 in the Statement of Requirements.

**WHS Act** means the *Work Health and Safety Act 2011* (Cth) and any corresponding WHS law within the meaning of section 4 of the WHS Act.

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

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

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

**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.

#### 49.2 Interpretation

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) clause headings, notes, words in bold format are inserted for convenience only, and have no effect in limiting or extending the language of provisions;
- (e) all references to dollars are to Australian dollars;
- (f) a reference to any legislation or legislative provision includes any statutory modification, substitution, re-enactment, or successor of that legislation or legislative provision;
- (g) an 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;
- (h) a reference to a schedule (or attachment) is a reference to a schedule (or an attachment) to this Deed, including as amended or replaced from time to time by agreement in writing between the Parties;
- (i) a reference to an internet site includes those sites as amended from time to time;
- (j) a reference to Guidelines is a reference to those Guidelines as advised and amended by the Department from time to time;
- (k) 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;
- (l) a reference to writing is a reference to any visible representation of words, figures or symbols;
- (m) the CTA Provider must perform all obligations in this Deed in accordance with any Guidelines, even if a particular clause does not expressly refer to any Guidelines; and
- (n) Guidelines may be varied by the Department at any time and the at the Department's absolute discretion.

#### 49.3 If there is any conflict or inconsistency between any part of:

- (a) the terms and conditions of this Deed, including any Condition of Offer;
- (b) the Schedules;
- (c) the Particulars;
- (d) the Guidelines; and

(e) Annexure A [Joint Charter of Deed Management],

then the material mentioned in any one of paragraphs (a) to (e) above has precedence over material mentioned in a subsequent paragraph, to the extent of any conflict or inconsistency.



**Employment Services Joint Charter of Deed Management**

The Department of Jobs and Small Business and providers delivering services under the jobactive Deed 2015–2020, the jobactive Deed (Norfolk Island) 2016-2018, the ParentsNext Deed, the Employability Skills Training Deed 2017-2020, the Transition to Work Deed 2016-2020, the Time to Work Employment Service Deed and the Career Transition Assistance Trial Panel Deed 2018-2020, agree to conduct themselves in accordance with this Joint Charter of Deed Management.

This joint charter is observed by the Department, Employment Providers, ParentsNext Providers, EST Providers, Transition to Work Providers, Time to Work Providers, Career Transition Assistance Providers, the National Harvest Labour Information Service and providers of the New Enterprise Incentive Scheme and Harvest Labour Services.

**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 job seekers, 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:***

|                                     |                      |
|-------------------------------------|----------------------|
| <b>Respect and support</b>          | <b>Respect</b>       |
| <b>Openness and transparency</b>    | <b>Collaboration</b> |
| <b>Integrity and accountability</b> |                      |
| <b>Continuous improvement</b>       |                      |

# What providers can expect from the Department

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## 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 job seekers—when developing resolutions
- support providers to implement programme 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, job seekers 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 programme assurance activities
- treat providers' information confidentially (subject to relevant deed provisions)
- exercise its rights under the Deed 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

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## 1 Respect

- Providers will: respect the Department's role, experience and expertise
- treat job seekers, the Department, other providers, Work for the Dole host organisations and industry stakeholders with courtesy and consideration
- respond to queries appropriately.

## 2 Collaboration

- develop and maintain effective relationships with the Department, employers, other providers, Work for the Dole 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 this 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 programme 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 job seekers, employers, Work for the Dole host organisations and other stakeholders
- actively identify and manage risks.

## 4 Continuous Improvement

Providers will:

- work to increase job outcomes for job seekers
- further develop service strategies that increase job outcomes for Indigenous job seekers
- 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.

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**Schedule 1      Deed and Business Details**

*[Attached separately]*



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## Schedule 2 Statement of Requirements

### SECTION 1 – GENERAL

#### 1. General requirements

- 1.1 CTA comprises two CTA Elements: the Tailored Career Assistance Element and the Functional Digital Literacy Element.
- 1.2 Each CTA Element must be delivered face-to-face by a Facilitator and with a maximum ratio of one Facilitator to no more than 15 Participants, unless otherwise agreed in writing by the Department.
- 1.3 The CTA Provider must offer and provide both CTA Elements that can be undertaken by Participants with full-time participation requirements and Participants with part-time participation requirements.

#### 2. Referral

- 2.1 Upon receipt of a Referral, the CTA Provider must, by no later than the end of the next Business Day:
  - (a) arrange an Initial Meeting between the Participant and the relevant Facilitator(s) to occur within five Business Days of the date of the Referral; and
  - (b) notify the Employment Provider of the date, time and location for the Initial Meeting.
- 2.2 If the Participant is Referred to the CTA Provider to undertake each of the two CTA Elements, the CTA Provider is only required to arrange one Initial Meeting.

#### 3. Initial Meeting

- 3.1 The CTA Provider must not allow a Participant to commence in a CTA Element until an Initial Meeting has occurred.
- 3.2 The CTA Provider must ensure that, during the Initial Meeting, the Facilitator:
  - (a) if the Participant has been Referred to the Tailored Career Assistance Element, completes a Career Pathway Assessment for the Participant in accordance with item 8.4(a) of this Schedule 2; and
  - (b) if the Participant has been Referred to the Functional Digital Literacy Element, completes a Functional Digital Literacy Assessment which includes an assessment of the Participant's confidence and capability in using digital technology, and identifies key areas in which the Participant requires assistance.
- 3.3 If, during the Initial Meeting, the Facilitator assesses that the Participant is not suitable for, or not likely to benefit from participating in, the relevant CTA Element, the CTA Provider must, by no later than the end of that Business Day, notify the Participant's Employment Provider that it has not accepted the Participant into the relevant CTA Element(s).
- 3.4 If the Participant fails to attend the Initial Meeting with the Facilitator, the CTA Provider must, on the same Business Day, advise the Employment Provider of the Participant's non-attendance, noting any reasons or statements provided by the Participant in relation to the non-attendance.
- 3.5 On the same Business Day that the Initial Meeting is completed, the CTA Provider must advise the Employment Provider of the Participant's attendance.

#### 4. Participant attendance

- 4.1 The CTA Provider must not require or allow a Participant to participate in CTA for more than 25 hours per week in total, including if the Participant is undertaking each of the two CTA Elements concurrently.

- 4.2 If a Participant's Employment Provider has notified the CTA Provider that the Participant has a reduced capacity for participation, the CTA Provider must not require the Participant to participate in the relevant CTA Element(s) for more than the maximum number of hours per week notified by the Participant's Employment Provider.
- 4.3 If a Participant fails to attend a CTA Element on a day that the Participant was scheduled to attend:
- (a) the CTA Provider must attempt to contact the Participant in order to ascertain the Participant's reasons for non-attendance; and
  - (b) if, by the end of the fifth Business Day after the Participant failed to attend:
    - (i) the CTA Provider has not been able to make contact with the Participant; or
    - (ii) the CTA Provider has made contact with the Participant and the Participant informs the Facilitator that they cannot, or no longer wish to, participate in the relevant CTA Element(s),
 the CTA Provider must notify the Participant's Employment Provider that the Participant has failed to attend including any reasons provided by the Participant.
- 4.4 If item 4.3(b)(ii) of this Schedule 2 applies, the CTA Provider must on the same Business Day it is informed, advise the Participant's Employment Provider, including any reasons provided by the Participant.
- 5. Progress report**
- 5.1 The CTA Provider must, in accordance with any Guidelines, prepare a progress report for each Participant who undertakes the Tailored Career Assistance Element and provide the report to the Participant's Employment Provider by no later than three weeks after the Participant's commencement in the Tailored Career Assistance Element.
- 5.2 If a Participant is undertaking each of the two CTA Elements, the progress report referred to in item 5.1 of this Schedule 2 must include a copy of the Participant's Functional Digital Literacy Assessment. For the avoidance of doubt, the CTA Provider is not required to provide a progress report for Participants undertaking the Functional Digital Literacy Element only.
- 6. Warm Handover Meeting**
- 6.1 Subject to item 6.2 of this Schedule 2, the CTA Provider must arrange a Warm Handover Meeting between the Facilitator, the Participant and the Participant's Employment Provider which must occur within five Business Days of the Participant's completion of a CTA Element.
- 6.2 If a Participant is undertaking each of the two CTA Elements concurrently, the CTA Provider is only required to arrange one Warm Handover Meeting in respect of that Participant, which must occur within five Business Days of the Participant completing whichever of the two CTA Elements finishes later.
- 6.3 The CTA Provider must ensure that, during the Warm Handover Meeting, the Facilitator:
- (a) discusses with the Participant and the Employment Provider the Participant's next steps for pursuing employment opportunities or work experience opportunities;
  - (b) offers the Participant two future Contacts with the Facilitator to occur within three months of the date that the Participant completed the final CTA Element;
  - (c) provides a written record to the Participant of the agreed date(s) for the future Contacts;
  - (d) gives the Participant an opportunity to complete a feedback form, in accordance with any content and format requirements specified by the Department in any Guidelines; and

- (e) if the Participant has undertaken the Tailored Career Assistance Element, provides the Employment Provider with a copy of the Participant's Career Pathway Plan.

**7. Ongoing support - Contacts**

- 7.1 The CTA Provider must ensure that it provides ongoing support to each Participant who completes the Tailored Career Assistance Element by providing Contacts with the Participant in accordance with any Guidelines and the Participant's Career Pathway Plan.
- 7.2 The Contacts can be one-on-one between the Participant and the Facilitator or in a group setting between the Facilitator and a number of Participants.

## **SECTION 2 - TAILORED CAREER ASSISTANCE ELEMENT**

**8. Core requirements**

8.1 The Tailored Career Assistance Element:

- (a) must be delivered to each Participant for at least 50 hours in total, with a minimum of 30 of those hours delivered in a small group setting; and
- (b) should be delivered over a period of six weeks or less, depending on the maximum number of hours per week that each Participant can participate.

8.2 The Tailored Career Assistance Element must deliver training and coaching which is designed to help Participants, as mature age job seekers, to become more competitive in their local labour market.

8.3 The Tailored Career Assistance Element must:

- (a) be delivered in an interactive and collaborative manner, with the Facilitator encouraging Participants to share their own expertise and support each other throughout the different components of the Tailored Career Assistance Element;
- (b) be delivered to each Participant in accordance with their Career Pathway Assessment; and
- (c) include one-on-one sessions between each Participant and the Facilitator as required to meet the individual needs of, or any particular training required by, the Participant.

8.4 The content of the Tailored Career Assistance Element must include the following core components which must be delivered to all Participants who undertake the Tailored Career Assistance Element:

- (a) **Complete a Career Pathway Assessment:** For the purposes of item 3.2(a) of this Schedule 2, each Career Pathway Assessment must:
  - (i) document the Participant's life stage and employment and other goals;
  - (ii) identify the Participant's training needs, recent experience and expectations;
  - (iii) identify the Participant's main barriers to securing employment; and
  - (iv) outline how the Tailored Career Assistance Element will be delivered in a way that addresses the Participant's individual needs.
- (b) **Develop Goals and Motivations** – The CTA Provider must provide opportunities for exploring Participants' goals and motivations, and managing Participants' expectations for a change in career or lifestyle. This component must introduce wellbeing and resilience strategies to help Participants cope with potential knock-backs and to build confidence in applying for jobs.

- (c) **Understand the Local Job Market and Identify Suitable Opportunities** – This component must explore job opportunities and identify regional requirements and industry needs in the local region. This component must include details of how the local market has changed over time and will continue to change in the future. Participants must be supported to identify suitable occupations in local and regional growth industries where employment opportunities are likely to be available.
- (d) **Explore and Translate Transferable Skills** – This component must support Participants to identify and articulate their skills and experience and how these relate to the current job market. This component must include a discussion of pathways for re-skilling and further training, and potentially formal recognition of prior learning or new relevant qualifications, as appropriate for each Participant.
- (e) **Improve and Tailor Résumés** – This component must involve reviewing, improving and tailoring appropriate Résumés for a range of different jobs for each Participant. Advice must be provided to each Participant on what to include, how to display content and what the Participant needs to consider when uploading a Résumé online. A key part of this component is ensuring that the Participant has the skills to create, edit and send their Résumé using IT platforms. The Participant must also learn how and when to tailor their Résumé for a specific job. A copy of each Participant’s Résumé must be uploaded into their jobsearch account and be made available to the Participant for future use and editing. The CTA Provider must provide a copy of the Résumé to the Participant and the Participant’s Employment Provider at or before the Warm Handover Meeting.
- (f) **Navigate the Job Application Process** – The CTA Provider must assist Participants to gain an understanding of different job application processes and how to manage their expectations in relation to receiving responses and feedback. This component must look at how the application process has changed over time and the relative competitiveness of applying for a position, particularly online. The CTA Provider must enable Participants to practice applying for jobs through different websites and help them understand the implications of having an online presence.
- (g) **Practise and Enhance Interview Skills** – This component must provide guidance to Participants on how to prepare for job interviews across a range of different Employers and industries. This component must address what Employers expect from a potential employee, with a focus on what can be expected at a job interview and how a mature age person can best sell themselves during an interview.
- (h) **Experience Different Industries** – For this component, the CTA Provider must:
  - (i) ensure that each Participant has the opportunity to participate in at least one Outbound Employer Visit or Inbound Employer Visit, so that the Participant can get a ‘feel’ for a particular industry or industries;
  - (ii) ensure that during each Outbound Employer Visit and Inbound Employer Visit, the relevant Employer:
    - (A) discusses pathways into their occupation or industry;
    - (B) provides Participants with an insight into the tasks and duties of the relevant occupation or industry; and
    - (C) highlights the Employer’s expectations in relation to the employment of mature age employees;
  - (iii) assist Participants to identify their interest in, and suitability for, particular jobs in the relevant occupation or industry; and

(iv) identify appropriate work experience options for each Participant, for consideration by the Participant's Employment Provider.

(i) **Prepare A Career Pathway Plan** – The CTA Provider must develop, for each Participant who undertakes the Tailored Career Assistance Element, a clear plan of action outlining the steps the Participant will need to take to pursue employment and/or training opportunities based on the Participant's transferable skills and the local labour market. The Career Pathway Plan must include, at a minimum:

(i) details of the Participant's employment goals and motivation;

(ii) details of occupations and industries suitable for the Participant to apply for in their local labour market;

(iii) a summary of the Participant's transferable skills, identified strengths and experience relevant to these industries or jobs;

(iv) work experience options for the Participant;

(v) details of future Contacts; and

(vi) a self-marketing plan with practical steps that the Participant can take to market themselves to potential Employers.

8.5 The CTA Provider must provide a copy of the Career Pathway Plan to the Participant and the Participant's Employment Provider at or before the Warm Handover Meeting.

8.6 The CTA Provider should use innovation and local knowledge to tailor the core components described in item 8.4 of this Schedule 2 to suit the particular needs of each Participant undertaking the Tailored Career Assistance Element.

## 9. **Additional requirements for Outbound Employer Visits**

9.1 The Department may, at any time, give a direction to the CTA Provider in relation to an Outbound Employer Visit, including a direction that the Outbound Employer Visit:

(a) be discontinued and or not occur; or

(b) not occur within a specific timeframe,

and if the CTA Provider receives such a direction, the CTA Provider must:

(c) immediately take any action required by the direction; and

(d) otherwise continue to perform the Services in accordance with this Deed.

### *Checks on Participants, Personnel and Supervisors*

9.2 If an Outbound Employer Visit involves close proximity with Vulnerable People (including, without limitation, Participants who are Vulnerable People), the CTA Provider must:

(a) work with the relevant Employment Provider to ensure that relevant checks are conducted on all Participants; and

(b) ensure that relevant checks are conducted on all Personnel and Supervisors who will be involved in the Outbound Employer Visit in accordance with clause 12.

9.3 The CTA Provider must not allow a Participant, Personnel or a Supervisor to be involved in an Outbound Employer Visit:

(a) if any relevant legislation or Guidelines provide or mean that the Participant, Personnel or Supervisor 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 Outbound Employer Visit; or
- (ii) there is otherwise a reasonably foreseeable risk that the person may cause loss or harm to other persons involved in the Outbound Employer Visit,

unless the CTA Provider has put in place reasonable measures to remove or substantially reduce that risk.

*Transport*

- 9.4 If transporting Participants to or from an Outbound Employer Visit, the CTA Provider must do so in accordance with any Guidelines.

*Work health and safety*

- 9.5 Prior to the commencement of, and throughout, any Outbound Employer Visit, the CTA Provider must, in accordance with any Guidelines, satisfy itself that that there is a safe system of work in place, in accordance with applicable WHS Laws.

- 9.6 Prior to the commencement of any Outbound Employer Visit The CTA Provider must, in accordance with any Guidelines:

- (a) undertake a risk assessment that includes an assessment of:
  - (i) the risks in relation to the activities to be undertaken by Participants during the Outbound Employer Visit; and
  - (ii) the risks for each individual Participant, having regard to the Participant’s potential participation in the Outbound Employer Visit and their health and safety, and taking into consideration any circumstances and work restrictions relevant to the Participant; and

prior to the commencement of any Outbound Employer Visit and at all times during the Outbound Employer Visit,

- (b) examine the relevant risk assessment to ensure that the Outbound Employer Visit is appropriate for the Participant, with regard to their health and safety, taking into consideration any relevant circumstances and work restrictions;
- (c) identify any training, including work health and safety training, that will be required to ensure that each Participant can participate in the Outbound Employer Visit safely, and ensure that training of sufficient length and quality is provided to all Participants by the relevant Employer at the commencement of the Outbound Employer Visit as required;
- (d) ensure that appropriate facilities (such as toilets and access to drinking water) will be available to all Participants for the duration of the Outbound Employer Visit;
- (e) identify if any specific equipment, clothing or materials are required for Participants to participate safely in the relevant activities, and ensure that such specific equipment, clothing or materials will be provided to Participants;
- (f) ensure that any required actions, identified in the relevant risk assessment, have been undertaken;
- (g) confirm with the Employer hosting the Outbound Employer Visit whether:
  - (i) there have been any significant changes in relation to the relevant Outbound Employer Visit, including work, health and safety issues, since the date of the relevant risk assessment; and

- (ii) the Employer is satisfied that it has sufficient and current insurances which insure any risk identified in the relevant risk assessment and any risk otherwise arising in relation to the relevant Outbound Employer Visit;
- (h) if:
  - (i) any required actions, identified in the relevant risk assessment, have not been undertaken, ensure that all such actions are undertaken; and
  - (ii) there have been changes as specified at clause 9.6(g)(i) and/or the CTA Provider identifies significant changes as part of their ongoing monitoring of the Outbound Employer Visit, review and revise the relevant risk assessment and take all appropriate action, or ensure that all appropriate action is taken, to address any such changes; and
- (i) ensure that each Participant being considered for participation in the Outbound Employer Visit has been advised of the process for reporting any work health and safety issues regarding the Outbound Employer Visit.

9.7 The CTA Provider must, in accordance with any Guidelines:

- (a) retain Records of the risk assessment referred to in clause 9.6 and any action taken in accordance with the risk assessment, and provide the relevant Records to the Department upon request; and
- (b) ensure that each Employer hosting an Outbound Employer Visit is notified that it must immediately advise the CTA Provider of any proposed or actual changes to the tasks being undertaken by Participants involved in the Outbound Employer Visit or the circumstances in which those tasks are being undertaken.

9.8 If the CTA Provider does not itself employ a Competent Person relevant to meeting the obligations at clauses 9.5 to 9.7, it must engage a relevant Competent Person, as required, for this purpose.

Other matters relating to Outbound Employer Visits

9.9 The CTA Provider must:

- (a) for each Outbound Employer Visit, ensure that each Participant, Employer and any Supervisor are aware that the Employer, the CTA Provider or the Department may terminate the Outbound Employer Visit at any time; and
- (b) ensure that each Participant is aware of the process to lodge a complaint or voice safety concerns about any Outbound Employer Visits.

9.10 The CTA 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 Employer or a Participant that any Outbound Employer Visit itself will create legal relations between the Participant and:

- (a) the Commonwealth;
- (b) the CTA Provider; or
- (c) the Employer.

## **SECTION 3 – FUNCTIONAL DIGITAL LITERACY ELEMENT**

### **10. Core requirements**

10.1 The Functional Digital Literacy Element must be delivered for at least 25 hours in total over a period of no less than two weeks.

- 10.2 The Functional Digital Literacy Element must:
- (a) focus on increasing Participants' knowledge and confidence in using everyday digital equipment to support job application processes and technology in the workplace, including in the office environment;
  - (b) build Participants' skills to confidently navigate different types of media devices such as smartphones, tablets, apps and desktop computers; and be able to use these to support job application processes;
  - (c) adopt an action-learning style with the Facilitator guiding Participants to share expertise and support each other;
  - (d) primarily be delivered in a group based setting; and
  - (e) include one-on-one sessions between the Participant and the Facilitator to meet the individual needs of the Participants.
- 10.3 At a minimum, the following core components must be covered in the Functional Digital Literacy Element:
- (a) getting online and using general search tools, including via social media websites;
  - (b) applying for jobs online, including how to use the jobactive website and add attachments and complete forms on that website;
  - (c) responding to online employment advertisements through employment-oriented and social networking platforms;
  - (d) navigating smartphones and tablets;
  - (e) basic desktop computer publishing;
  - (f) setting up (if required) and using an email account to apply for jobs;
  - (g) setting up and using a MyGov account and jobactive apps; and
  - (h) editing and uploading a Résumé and a response to selection criteria through online platforms.
- 10.4 The CTA Provider must provide each Participant with access to current information technology and media devices and equipment, including desktop computers and wireless, portable computer devices such as smartphones and tablets, for the purposes of delivering the training described in this item 10 of this Schedule 2.



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## Schedule 3 Key Performance Indicators

### CTA Provider Key Performance Indicators

The KPIs are:

**KPI 1 Effectiveness**—this indicator will focus on the effectiveness of Services that are provided and may include:

- the extent to which the CTA Provider has developed and used links with industry and local Employers to prepare Participants for employment or work experience opportunities;
- the extent to which there has been increase of Participants’ resilience and confidence, measured through surveys; and
- the extent to which there has been increase of Participants’ digital literacy (where relevant), measured through surveys.

**KPI 2 Efficiency**—this indicator will focus on the efficiency of Services that are provided and may include:

- proportion of Participants that commence in the Tailored Career Assistance Element and receive a Career Pathway Assessment;
- proportion of Participants that commence in the Functional Digital Literacy Element and receive a Functional Digital Literacy Assessment; and
- proportion of Participants that complete the Tailored Career Assistance Element, receive a Career Pathway Plan, Résumé and two further Contacts.

**KPI 3 Satisfaction and Quality**—this indicator will focus on the quality of the Services that are provided and may include:

- Participants’ service satisfaction, measured through surveys;
- quality of Career Pathway Plans and Résumés, as assessed by the Department; and
- quality of Services delivered by the CTA Provider, as assessed by the Department.