



Australian Government
Department of Employment

GENERAL DEED OF VARIATION

jobactive Deed 2015–2020

General Deed of Variation No. 2

between

The Commonwealth of Australia

and

<%ContractContractingName%>

<%ContractContractNumber%>

JOBACTIVE DEED 2015–2020

General Deed of Variation No. 2

THIS DEED is made on theday of.....2016

BETWEEN

THE COMMONWEALTH OF AUSTRALIA (Commonwealth) acting through and represented by the **Department of Employment (ABN 54 201 218 474) ('the Department')**

AND

<%ProviderLegalName%> (ABN <%ProviderABN%>), of <%ProviderAddressLegalAddressLine1%>, <%ProviderAddressLegalAddressLine2%> <%ProviderAddressLegalAddressLine3%> <%ProviderAddressLegalSuburb%> <%ProviderAddressLegalState%> <%ProviderAddressLegalPostcode%> ('the Provider')

If the Provider is a Tendering Group add the following text: <%ConsortiumLeadMemberName%> ('the Lead Member') and together with the Tendering Group members listed at Attachment A. (PLEASE REMOVE THIS TEXT IF PROVIDER IS NOT A TENDERING GROUP)

(collectively, 'the Parties')

RECITALS

- A. The Parties have entered into an jobactive Deed 2015–2020 (<%ContractContractNumber%>). This deed, together with any subsequent variations thereto, is referred to hereafter as 'the Deed'.
- B. Clause 67.1 of the Deed states that: "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."
- C. The Parties wish to vary the Deed, and this deed variation is referred to hereafter as 'General Deed of Variation No. 2'.

THIS DEED WITNESSES AND THE PARTIES AGREE:

1. Interpretation

- 1.1 Unless the contrary intention appears, capitalised terms used in this General Deed of Variation No. 2 have the same meaning as in the Deed.

2. Commencement and General Effect

- 2.1 Unless otherwise specified herein, General Deed of Variation No. 2 commences on 1 July 2016 ('the Effective Date').
- 2.2 From the Effective Date, the Deed is varied in accordance with Attachment 1.

3. Applicable law

- 3.1 This General Deed of Variation No. 2 is governed by, and construed in accordance with, the laws in force in New South Wales.

General Deed of Variation No. 2:
<%ContractContractNumber%>

Provider Initials

Department Initials

4. Force

4.1 The Parties confirm all the other provisions of the Deed and, subject only to the amendments contained in this General Deed of Variation No. 2, the Deed shall remain in full force and effect and shall be read and construed and be enforceable as if the terms of this General Deed of Variation No. 2 were supplemental to the Deed.

5. Indemnity

5.1 The Provider agrees to indemnify the Commonwealth against any costs, liabilities or expenses incurred in relation to the preservation or enforcement of any rights under this General Deed of Variation No. 2 including legal costs and expenses on a full indemnity basis.

6. Further Acts

6.1 Each of the Parties must promptly execute all documents and do all things that the other Party from time to time reasonably requests to give effect to, perfect or complete this General Deed of Variation No. 2 and all transactions incidental to it.

7. Costs

7.1 The Parties shall each bear their own costs and expenses (including legal costs) arising out of and incidental to the negotiation, preparation, execution and delivery of this General Deed of Variation No. 2.

EXECUTED by the Parties as a Deed on the date above.

SIGNED SEALED AND DELIVERED for and on behalf of:

THE COMMONWEALTH OF AUSTRALIA by:

(Printed Name)

(Signature)

(Position)

in the presence of:

(Printed Name)

(Signature)

SIGNED SEALED AND DELIVERED for and on behalf of:

<%ProviderLegalName%> (ABN <%ProviderABN%>) by:

(Printed Name)

(Printed Name)

(Position)

(Position)

(Signature)

(Signature)

in the presence of:

(Printed Name)

(Printed Name)

(Signature)

(Signature)

TENDERING GROUP MEMBERS

[PLEASE ADD THE DETAILS OF TENDERING GROUP MEMBERS

REMOVE ATTACHMENT A IF PROVIDER IS NOT A TENDERING GROUP]

Name	Address	ABN
[Drag and drop info from below if a Tendering Group]	[Insert details from CAS]	[Drag and drop info from below if a Tendering Group]

<%ConsortiumConsortiumMembersName%>

**VARIATIONS TO
JOBACTIVE DEED 2015-2020
for
Employment Provider Services
Harvest Labour Services
National Harvest Labour Information Service
New Enterprise Incentive Scheme**

1. Amendments in this Attachment 1 include amendments set out at Appendices A to P to this Attachment 1.

2. Provisions referred to in this Attachment 1 are amended as follows:
 - (a) words shown in red and strikethrough are deleted;
 - (b) words in red and not in strikethrough are inserted;
 - (c) new definitions are inserted into Annexure A1 of the Deed in alphabetical order;
 - (d) other new provisions are inserted into the Deed in numerical order; and
 - (e) otherwise as stated.

Note 1: Where only part of a provision appears in an appendix, the relevant amendments are intended to apply only to that part of the provision, and the balance of the provision is unchanged.

Appendix A of Attachment 1 - ParentsNext

28. Performance assessments

28.2 For the purposes of clause 28.1190, the Department may rely on data collected from any source, including, without limitation, feedback from Participants, Employers, Work for the Dole Coordinators, Transition to Work Providers, **ParentsNext Providers, NEIS Providers and HLS Providers** and intelligence from the Department's Employment Services Tip off Line.

...

Annexure A1 – Definitions

'Delegate' means:

- (a) for a ParentsNext Volunteer, a person engaged by the ParentsNext Volunteer's ParentsNext Provider; and
- (b) for all other Stream Participants, a person engaged by the Provider, who is a delegate of the Secretary of the Department under the Social Security Law.

'Job Plan' means:

- (a) for ParentsNext Volunteers, the plan defined as a 'Participation Plan' under the ParentsNext Funding Agreement; and
- (b) for all other Stream Participants, the plan described in clause 87, and which includes an employment pathway plan under the *Social Security Act 1991* (Cth) and a participation plan for Disability Support Pension recipients with compulsory requirements under the *Social Security Act 1991* (Cth), or, if the *Social Security Act 1991* (Cth) is amended, any other such plans.

'Other Provider' means:

- (a) an Employment Provider or a ParentsNext Provider that refers a Stream Participant; or
- (b) a DES Provider that refers a DES Participant,

to a NEIS Provider.

'ParentsNext' means the Commonwealth programme of that name (or such other name as advised by the Department), administered by the Department.

'ParentsNext Funding Agreement' means the agreement for the provision of ParentsNext services with the Department as varied from time to time.

'ParentsNext Provider' means any entity that is a party to a ParentsNext funding agreement with the Department.

'ParentsNext Volunteer' means a Volunteer who is participating in ParentsNext.

...

84. Contacts

84.1 The Provider must provide each Stream Participant (except a ParentsNext Volunteer) with the following Contacts in accordance with this Deed including any Guidelines:

- (a) an Initial Interview on the date of the relevant Appointment in the Provider's Electronic Diary, or as subsequently arranged between them and the Provider;
- (b) for SPI Participants, one Contact each month to discuss Job Searches they have undertaken in the previous month and to identify jobs that they can be referred to;
- (c) for Transition to Work Participants, participate in a preparation meeting in accordance with clause 82.3(b);
- (d) **Re-engagement Appointments in accordance with any Guidelines; and**
- (e) any other Contacts as outlined in the Provider's Service Delivery Plan and its tender response to the request for tender for this Deed, and as otherwise required to ensure the Stream Participant satisfies the requirements of their Job Plan.

84.2 **The Provider must provide each ParentsNext Volunteer with the following Contacts in accordance with this Deed including any Guidelines:**

- (a) an Initial Interview at a time agreed between the ParentsNext Volunteer, their ParentsNext Provider and the Provider; and
- (b) any other Contacts required to ensure that the ParentsNext Volunteer satisfies the requirements of their Job Plan.

84.3 The Provider must ensure that each Contact is appropriately tailored to meet the circumstances of the individual Stream Participant and that the result of the Contact is recorded in the Department's IT Systems in accordance with any Guidelines.

85. Initial Interviews

85.1 The Provider must, during the Initial Interview for each Stream Participant **(except a ParentsNext Volunteer):** ...

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

~~85.3~~ In addition to the requirements set out in clause 85.1, the Provider must:

- (a) at the Initial Interview; or
- (b) in the case of a Stream B (General) Participant and Stream C Participant, at such times as is deemed appropriate by the Provider based on the person's individual needs,

for each Stream Participant **(except a ParentsNext Volunteer):**

- (c) canvass with them the jobs that Employers have available in the local labour market;
- (d) refer them to suitable Vacancies in accordance with clause 91; and
- (e) provide Self-help Facilities in accordance with clause 86.1.

85.3 **The Provider must, during an Initial Interview for a ParentsNext Volunteer:**

- (a) explain the Employment Provider Services that the Provider will provide to them;

(b) agree with the ParentsNext Volunteer and their ParentsNext Provider on the activities that the ParentsNext Volunteer will undertake while they are receiving Employment Provider Services; and

(c) otherwise comply with any Guidelines.

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

...

87. General requirements for a Job Plan

87.4 Subject to clause 87.2(b), the Provider must ensure that a Delegate reviews, and, if appropriate, updates the terms of each Stream Participant's existing Job Plan, as events occur which result in the need to change their Mutual Obligation Requirements or servicing, in accordance with any Guidelines.

Note: the Delegate for a ParentsNext Volunteer is a person engaged by the ParentsNext Volunteer's ParentsNext Provider – see Annexure A1.

87.5 The Provider must:

(a) not enter into or update a Job Plan for a ParentsNext Volunteer; and

(b) where a Job Plan for a ParentsNext Volunteer does not meet the requirements of this clause 87, ensure that the Job Plan is updated by the ParentsNext Volunteer's ParentsNext Provider.

Contents of a Job Plan

87.5.6 Subject to clause 87.5, the Provider must ensure that the Job Plan for each Stream Participant: ...

87.67 The Provider must provide the Stream Participant with the assistance, and arrange and monitor the activities, specified in the Job Plan.

...

99. Performance Indicators

Other factors in performance assessment

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

(d) collaboration with other Employment Providers, Transition to Work Providers, ParentsNext Providers, NEIS Providers, HLS Providers, Disability Employment Services providers and Work for the Dole Coordinators; ...

...

114. Monitoring

Monitoring and reporting for ParentsNext Volunteers

114.2 The Provider must, in accordance with any Guidelines:

- (a) monitor the participation of ParentsNext Volunteers in Activities;
- (b) where the Provider determines that a ParentsNext Volunteer has failed to attend, or participate appropriately in, an Activity, notify their ParentsNext Provider as soon as practicable; and
- (c) regularly report to the ParentsNext Provider for each ParentsNext Volunteer on the participation of that ParentsNext Volunteer in the Activities.

Appendix B of Attachment 1 – Mutual Obligation

115. Non-compliance action for Mutual Obligation Requirements

Non-compliance in relation to Appointments, compulsory activities included in a Job Plan and job interviews with prospective Employers

115.1 Where **the Provider becomes aware that any** Fully Eligible Participant (Mutual Obligation) has ~~not failed to comply with one or more of their Mutual Obligation Requirements by failing to:~~

- (a) ~~attended~~ an Appointment (including a Re-engagement Appointment); ~~or~~
- (b) ~~, or has failed to~~ attend, or participate appropriately in:
 - (i) a compulsory activity included in their Job Plan; ~~or~~
 - (ii) a job interview with a prospective Employer,

the Provider must **in accordance with any Guidelines**, on the same Business Day on which the Provider becomes aware of ~~the event failure to comply, and in accordance with any~~ **Guidelines:**

- ~~(a)~~ (c) confirm that no prior contact has been made by the Fully Eligible Participant (Mutual Obligation) with the Provider that evidences that the Fully Eligible Participant (Mutual Obligation) had a Valid Reason for ~~not complying the failure to comply;~~
- ~~(b)~~ (d) if the Provider assesses that there is no Valid Reason evident for the failure to comply ~~there is no such Valid Reason evident~~, as soon as possible on the same Business Day ~~as that assessment~~, attempt to contact the Fully Eligible Participant (Mutual Obligation) to assess if they had a Reasonable Excuse for ~~not complying the failure to comply;~~ and
- ~~(e)~~ (e) record this in the Department’s IT Systems.

*Note 1: The principal difference between a Valid Reason and a Reasonable Excuse is that Valid Reason is operative prior to the ~~event failure to comply~~ (i.e. if a Fully Eligible Participant (Mutual Obligation) contacts **the Provider** to say they cannot meet their Mutual Obligation Requirements before failing to do so), whereas Reasonable Excuse is operative after the ~~event failure to comply~~ (i.e. when a Fully Eligible Participant (Mutual Obligation) has failed to meet their Mutual Obligation Requirements and has not advised that they cannot meet the requirements prior to the ~~event failure to comply~~ occurring) – see the relevant definitions.*

115.2 If, ~~on the same Business Day on which the Provider becomes aware of the failure to comply referred to in clause 115.1~~, the Provider assesses that the relevant Fully Eligible Participant (Mutual Obligation) had a Valid Reason or a Reasonable Excuse for ~~not complying the failure to comply referred to in clause 115.1~~, the Provider must, in accordance with any Guidelines:

- (a) record the ~~determination reason~~ in Department’s IT Systems; and
- (b) use its best endeavours to ensure that the Fully Eligible Participant (Mutual Obligation) complies with their Mutual Obligation Requirements at the next available opportunity.F

115.3 If, on the day on which the Provider becomes aware of the failure to comply referred to in clause 115.1, the Provider:

- (a) has, ~~on the same Business Day,~~ made contact with the Fully Eligible Participant (Mutual Obligation), and assesses that the Fully Eligible Participant (Mutual Obligation) does not have a Valid Reason or Reasonable Excuse for ~~not complying the failure to comply;~~ or
- (b) has not been able to make contact with the Fully Eligible Participant (Mutual Obligation) ~~on the same Business Day on which the Provider becomes aware of the event,~~

the Provider must, in accordance with any Guidelines, comply with clauses 115.4 to 115.134 as relevant.

Appointments

115.4 In relation to a Fully Eligible Participant's (Mutual Obligation) failure to attend ~~non-attendance at~~ an Appointment (including a Re-engagement Appointment) ~~by a Fully Eligible Participant (Mutual Obligation),~~ the Provider must, on the same Business Day of becoming aware of the ~~event~~ failure to attend, determine whether any action should be taken under the job seeker compliance framework in relation to the ~~event~~ failure to attend in accordance with any Guidelines.

115.5 If the Provider determines that the action as specified in clause 115.4 should be taken, the Provider must document any information relevant to the ~~event~~ failure to attend referred to in that clause in the Department's IT Systems, ~~;~~ and ...

- (b) if clause 115.3(b) applies:
 - (i) submit a Non-Attendance Report to DHS via the Department's IT Systems on the same Business Day that the Appointment was scheduled to occur;
 - (ii) on making contact with the Fully Eligible Participant (Mutual Obligation), assess whether they had a Reasonable Excuse for ~~not complying the failure to attend referred to in clause 115.4;~~
 - (iii) if the Provider assesses that the Fully Eligible Participant (Mutual Obligation) did not have a Reasonable Excuse, ~~determine whether any further action should be taken under the job seeker compliance framework in relation to the event; and for the failure to attend referred to in clause 115.4:~~

~~(iv) if the Provider determines that such action should be taken:~~

- (A) document any information relevant to the ~~event~~ the failure to attend referred to in clause 115.4 in the Department's IT Systems and submit a Provider Appointment Report to DHS via the Department's IT Systems on the same Business Day as the Provider assesses that the Fully Eligible Participant (Mutual Obligation) did not have a Reasonable Excuse; and

(B) unless otherwise specified in any Guidelines, in consultation with the Fully Eligible Participant (Mutual Obligation), book a Re-engagement Appointment for them to occur within the next two Business Days **after the Provider assesses that the Fully Eligible Participant (Mutual Obligation) did not have a Reasonable Excuse**, and advise them of the Appointment;
or.

~~(v)~~115.6 If the Provider determines that ~~such~~**the action as specified in clause 115.4** should not be taken, unless otherwise specified in any Guidelines, in consultation with the Fully Eligible Participant (Mutual Obligation), book a Re-engagement Appointment for the Fully Eligible Participant (Mutual Obligation) to occur within the next two Business Days **after the assessment that such action should not be taken**, and advise them of the Appointment.

115.67 Where the Provider has, in accordance with this Section B3.4, reported ~~non-compliance of a Fully Eligible Participant (Mutual Obligation)~~ **any failure to comply referred to in clause 115.1** relating to ~~the an~~ **Appointments** (including **a Re-engagement Appointments**) to DHS, the Provider must ensure that the **relevant** Fully Eligible Participant (Mutual Obligation) has, in accordance with any Guidelines, an adequate opportunity to book another Appointment with the Provider.

Failure to attend, or participate appropriately in, compulsory activities included in a Job Plan or ~~at~~ a job interview with a prospective Employer

115.78 In relation to a **Fully Eligible Participant's (Mutual Obligation)** failure to attend, or participate appropriately in, a compulsory activity included in their Job Plan or a job interview with a prospective Employer, the Provider must, on the same Business Day of becoming aware of the **eventfailure**, determine whether any action should be taken under the job seeker compliance framework in relation to the **eventfailure** in accordance with any Guidelines.

115.89 If the Provider determines that action as specified in clause 115.78 should be taken, the Provider must on the same Business Day of becoming aware of **the eventfailure referred to in that clause**, document any information relevant to the **eventfailure** in the Department's IT Systems and, regardless of whether clause 115.3(a) or clause 115.3(b) applies, report the **failurenon-compliance** to DHS via the Department's IT Systems.

115.910 If the Provider determines that action referred to in clause 115.78 should not be taken, the Provider must, in accordance with any Guidelines:

- (a) record the determination; and
- (b) use its best endeavours to ensure that the Fully Eligible Participant (Mutual Obligation) complies with their Mutual Obligation Requirements at the next available opportunity.

Non-compliance with Job Search Requirements

115.1011 The Provider must, in accordance with any Guidelines:

- (a) within ten Business Days of the end of each Job Search Period, determine whether each Fully Eligible Participant (Mutual Obligation) has **appropriately met-complied with** their Job Search Requirement for that Job Search Period; and

- (b) if the Provider determines that ~~the relevant Job Search Requirement has been appropriately met~~ a Fully Eligible Participant (Mutual Obligation) has complied with their Job Search Requirement for the relevant Job Search Period, the Provider must continue to monitor the Fully Eligible Participant's (Mutual Obligation) compliance with their Job Search Requirement in accordance with clause 113.3, and use its best endeavours to ensure that the Fully Eligible Participant (Mutual Obligation) ~~meets~~complies with their Job Search Requirement;
- (c) if the Provider determines that ~~the relevant Job Search Requirement has not been appropriately met~~ a Fully Eligible Participant (Mutual Obligation) has failed to comply with their Job Search Requirement for the relevant Job Search Period, it must, on the same Business Day as that assessment, determine whether any action should be taken under the job seeker compliance framework in relation to the ~~event~~failure to comply; and
- (d) if the Provider determines that such action:
 - (i) should be taken, on the same Business Day as that assessment:
 - (i)(A) document that the Fully Eligible Participant (Mutual Obligation) has ~~not satisfactorily met~~failed to comply with their Job Search Requirement and submit any information relevant to the ~~event~~failure to comply with in the Department's IT Systems; and
 - (i)(B) report ~~the non-compliance that the Fully Eligible Participant (Mutual Obligation) has failed to comply with their Job Search Requirement~~ to DHS via the Department's IT Systems; and
 - ~~(e) if the Provider determines that such action~~
 - (ii) should not be taken, on the same Business Day; as that assessment:
 - (ii)(A) record its determination in the Department's IT Systems;
 - (ii)(B) continue to monitor the Fully Eligible Participant's (Mutual Obligation) compliance with their Job Search Requirement in accordance with clause 113.3; and
 - (ii)(C) use its best endeavours to ensure that the Fully Eligible Participant (Mutual Obligation) ~~meets~~complies with their Job Search Requirement.

Non-compliance with all other Mutual Obligation Requirements

115.112 Where the Provider becomes aware ~~determines~~ that any Fully Eligible Participant (Mutual Obligation) has ~~not met~~failed to comply with one or more of their ~~relevant~~-Mutual Obligation Requirements, other than their Job Search Requirement and those requirements specified in clause 115.1, the Provider must:

- (a) on the same Business Day on which the Provider becomes aware of the ~~event~~failure to comply, and in accordance with any Guidelines, attempt to contact the Fully Eligible Participant (Mutual Obligation) to assess if they have a Reasonable Excuse for ~~not complying~~the failure to comply; and

(b) record the attempt(s) in the Department's IT Systems.

115.1213 Where the Provider has, on the same Business Day on which the Provider becomes aware of the failure to comply referred to in clause 115.12, made contact with the Fully Eligible Participant (Mutual Obligation) and assessed that the Fully Eligible Participant (Mutual Obligation) does not have a Reasonable Excuse for ~~not complying~~the failure to comply, it must, in accordance with any Guidelines:

- (a) determine whether any action should be taken under the job seeker compliance framework in relation to the ~~event~~the failure to comply; and
- (b) if the Provider determines that such action should be taken, on the same Business Day of becoming aware of the ~~event~~failure to comply, document any information relevant to the ~~event~~ failure to comply in the Department's IT Systems and report the ~~non-compliance~~failure to comply to DHS via the Department's IT Systems.

115.1314 Where the Provider has not been able to make contact with the Fully Eligible Participant (Mutual Obligation) on the same Business Day on which the Provider becomes aware of the ~~event~~failure to comply referred to in clause 115.12, it must:

- (a) determine whether any action should be taken under the job seeker compliance framework in relation to the ~~event~~failure to comply; and
- (b) if the Provider determines that such action should be taken, on the same Business Day of becoming aware of the ~~event~~failure to comply, document any information relevant to the ~~event~~failure to comply in the Department's IT Systems and report the ~~non-compliance~~failure to comply to DHS via the Department's IT Systems.

116. Non-compliance action for Disability Support Pension Recipients (Compulsory Requirements)

116.1 Where the Provider becomes aware that any Disability Support Pension Recipient (Compulsory Requirements) has ~~not~~ failed to comply with one or more of their Mutual Obligation Requirements by failing to:

- (a) attended an Appointment;;
- (b) entered into a current Job Plan; or
- (c) appropriately participated in any Activities as specified in any Guidelines,

the Provider must attempt to contact the Disability Support Pension Recipient (Compulsory Requirements) on the same Business Day that they become aware of the ~~non-compliance~~failure to comply.

116.2 If the Provider has been able to make contact with the Disability Support Pension Recipient (Compulsory Requirements), it must, within ten Business Days of becoming aware of the ~~non-compliance~~failure to comply referred to in clause 116.1 and in accordance with any Guidelines:

- (a) determine whether the ~~non-compliance~~failure to comply should be reported to DHS;
- (b) if the Provider determines that the ~~non-compliance~~failure to comply should be reported to DHS, document any information relevant to the ~~event~~failure to comply in

the Department's IT Systems and report the ~~non-compliance failure to comply~~ to DHS via the Department's IT Systems; and

- (c) if the Provider determines that the failure to comply should not be reported to DHS, use its best endeavours to ensure that the Disability Support Pension Recipient (Compulsory Requirements) complies with their Compulsory Requirements at the next available opportunity.

116.3 If the Provider has not been able to make contact with the Disability Support Pension Recipient (Compulsory Requirements), it must, within ten Business Days of becoming aware of ~~the non-compliance failure to comply referred to in clause 116.1:~~

- (a) determine whether any action should be taken under ~~the job-seeker compliance framework arrangements~~ in relation to the ~~non-compliance failure to comply as specified in any Guidelines~~; and
- (b) if the Provider determines that such action should be taken, document any information relevant to the ~~event failure to comply~~ in the Department's IT Systems and report the ~~non-compliance failure to comply~~ to DHS via the Department's IT Systems.

Appendix C of Attachment 1 - Proportionate Liability

43. Liability of the Provider to the Department

Proportionate liability

...

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

...

Note: clause 68 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.

~~43.3 The Parties agree that, in addition to clause 43.2, to the extent permitted by law:~~

~~(a) the operation of Part 4 of the *Civil Liability Act 2002* (NSW) is excluded in relation to all and any rights, obligations and liabilities arising in or connected with the state of New South Wales;~~

~~(b) the operation of Part 9A of the *Civil Liability Act 2002* (TAS) is excluded in relation to all and any rights, obligations and liabilities arising in or connected with the state of Tasmania;~~

~~(c) the operation of Part 1F of the *Civil Liability Act 2002* (WA) is excluded in relation to all and any rights, obligations and liabilities arising in or connected with the state of Western Australia; and~~

~~(d) the operation of Part 1F of the *Civil Liability Act 2002* (WA) (CI) and the operation of Part 1F of the *Civil Liability Act 2002* (WA) (CKI) are excluded in relation to all and any rights, obligations and liabilities arising in or connected with the territory of Christmas Island and the territory of the Cocos (Keeling) Islands, respectively,~~

~~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.~~

Annexure A1 – Definitions

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

28. Performance assessments

28.1 During each Performance Period, the Department will monitor, measure and evaluate the Provider's performance against the requirements of this Deed, including, without limitation, and as relevant, the Employment Provider Services KPIs, the NEIS KPIs, the Joint Charter of Deed Management, the Service Delivery Plans, any representations in the Provider's tender response to the request for tender for this Deed, the Indigenous Outcomes Targets and the Service Guarantees.

...

Annexure A1 – Definitions

~~'NEIS Participant Agreement (pre 1 July 2015)' means an agreement entered into on or before 30 June 2015 between the Department and a NEIS Transitioned Participant for the provision of NEIS services.~~

~~'NEIS Fee' means the fee of \$5,580 which is payable for the provision of NEIS Services in accordance with clause 130, and excludes Fees payable under clause 133.6.~~

~~'NEIS Services' means the Services that must be provided by the NEIS Provider to NEIS Prospective Participants and NEIS Participants in accordance with Part C and clause 97, including for the purpose of which is to assisting NEIS Participants in establishing and running viable new small businesses in accordance with any Guidelines or written instructions issued by of the Department issued.~~

~~'NEIS Training' means training for a Certificate IV in New Small Business Management or Certificate III in Micro Business Operations, or as otherwise advised by the Department, and which must be undertaken in a face to face setting, unless otherwise specified in any Guidelines.~~

~~'NEIS Transition Services' means NEIS Services which:~~

- ~~(a) are the same as the outstanding services specified in the relevant NEIS Transitioned Participant's NEIS Participant Agreement (pre 1 July 2015); or~~
- ~~(b) the Department otherwise directs a NEIS Provider to provide to a NEIS Transitioned Participant or a NEIS Transitioned Prospective Participant; and~~
- ~~(c) are provided by the NEIS Provider in accordance with clauses 133.4 to 133.6, any Guidelines and any written instructions issued by the Department.~~

~~'NEIS Transitioned Participant' means a Stream Participant or DES Participant who was receiving NEIS services and had commenced receiving NEIS assistance, on or before 30 June 2015.~~

~~'NEIS Transitioned Prospective Participant' means a Stream Participant or DES Participant who was receiving NEIS services as a prospective NEIS participant and:~~

- ~~(a) had commenced in NEIS Training but not yet completed that training, on or before 30 June 2015; or~~
- ~~(b) had completed NEIS Training but had not yet commenced receiving NEIS Assistance on or before 30 June 2015.~~

...

127. General

127.2 The NEIS Provider must, unless otherwise agreed to by the Department in writing, only deliver NEIS Services to NEIS Prospective Participants, ~~and NEIS Participants and NEIS Transitioned Participants:~~ ...

127.3 If the conditions under clause 127.2(a) or (b) are not met, the Provider must refer the relevant NEIS Prospective Participant, ~~or NEIS Participant or NEIS Transitioned Participants~~ back to their ~~Other Provider Employment Provider or DES Provider, as relevant.~~

Assessing eligibility for NEIS Services

127.4 The NEIS Provider must, in accordance with any Guidelines, assess whether any Stream Participant or DES Participant referred to it by an ~~Other Provider Employment Provider or a DES Provider, as relevant,~~ is NEIS Eligible.

127.5 Where the NEIS Provider assesses that a Stream Participant or DES Participant is NEIS Eligible, and the NEIS Provider otherwise considers that the Stream Participant or DES Participant should undertake NEIS Training, the NEIS Provider must, in accordance with any Guidelines:

(a) advise the referring ~~Other Provider Employment Provider or DES Provider:~~ ...

127.6 Where the NEIS Provider assesses a Stream Participant or DES Participant as not being NEIS Eligible, the NEIS Provider must, in accordance with any Guidelines, advise the referring ~~Other Provider Employment Provider or DES Provider~~ of this assessment, and refer the Stream Participant or DES Participant back to their ~~Other Provider Employment Provider or DES Provider, as relevant.~~

128. NEIS Services for NEIS Prospective Participants

NEIS Business Plans

128.6 Subject to clause 127.2, where the NEIS Provider decides to approve the NEIS Prospective Participant’s NEIS Business Plan, the Provider must: ...

(f) advise the referring ~~Other Provider Employment Provider or DES Provider~~ prior to the NEIS Prospective Participant’s NEIS Commencement, that the NEIS Prospective Participant’s Job Plan should be updated, to reflect the NEIS Prospective Participant’s NEIS Commencement, when this occurs; and ...

129. NEIS Services for NEIS Participants

Advising DHS

129.2 The NEIS Provider must advise DHS and the referring ~~Other Provider Employment Provider or DES Provider, as relevant,~~ in writing, within five Business Days of each NEIS Commencement, that the relevant NEIS Participant has commenced NEIS Assistance and whether the NEIS Participant is receiving NEIS Allowance. ...

130. NEIS Fees

130.1 Subject to clause ~~130.2 and~~ 130.3, the Department will pay the NEIS Provider the NEIS Fee as follows:

- (a) 80 percent of the NEIS Fee following achievement of each NEIS Commencement, provided that the NEIS Commencement is achieved no later than the Completion Date; and
- (b) 20 per cent of the NEIS Fee following achievement of a NEIS Post-Programme Outcome, including where the NEIS Post-Programme Outcome is achieved after the Completion Date.

130.2 Where the relevant NEIS Commencement or NEIS Post-Programme Outcome is achieved on or before 4 May 2016, the NEIS Provider may claim the NEIS Fee from the Department:

- (a) on or after (but no more than 56 days after) the day on which the requirements in clause 130.1 relating to each part of the NEIS Fee are satisfied; and
- (b) by submitting a claim to the Department on the Department’s IT Systems in accordance with any Guidelines.

130.3 ~~The Department will not pay the NEIS Provider any NEIS Fee under clause 130.1 in respect of a NEIS Transitioned Prospective Participant or a NEIS Transitioned Participant~~ Where the relevant NEIS Commencement or NEIS Post-Programme Outcome is achieved on or after 5 May 2016 or any date otherwise specified by the Department, the Department will pay the NEIS Provider that part of the NEIS Fee under clause 130.1 within 10 Business Days of the achievement of the NEIS Commencement or NEIS Post-Programme Outcome.

~~Note: Fees payable for NEIS Transitioned Prospective Participants are specified in clause 133.6.~~

~~Note: The Department has implemented a process of automated payment of NEIS Fees which does not require the submission of claims by the Provider.~~

...

133. Transfers of NEIS Prospective Participants and NEIS Participants to or from the NEIS Provider

NEIS Transition Services

~~133.4 The Department may direct the NEIS Provider to provide NEIS Transition Services to a NEIS Transitioned Participant and/or a NEIS Transitioned Prospective Participant.~~

~~133.5 If directed by the Department to deliver NEIS Transition Services to a NEIS Transitioned Participant in accordance with clause 133.4, the NEIS Provider must do so and arrange for the relevant NEIS Transition Services Participant Agreement to be varied by both signatories to the agreement so that the NEIS Provider is listed as the ‘NEIS Provider’ under the agreement.~~

~~133.6 If directed by the Department to deliver NEIS Transition Services to a NEIS Transitioned Prospective Participant in accordance with clause 133.4, the NEIS Provider must do so and the Department will pay the NEIS Provider the following amounts:~~

- (a) ~~\$1,025 where the NEIS Provider arranged for the NEIS Transitioned Prospective Participant to undertake NEIS Training and the NEIS Transitioned Prospective Participant commences in NEIS Assistance;~~

~~(b) — \$2,050 on the awarding to the NEIS Transitioned Prospective Participant of the relevant certificate NEIS Training on or after 1 July 2015; and/or~~

~~(c) — \$1,480 on commencement of the NEIS Transitioned Prospective Participant in NEIS Assistance;~~

provided that:

~~(d) — the amounts specified at clauses 133.6(a) to (c) of this Deed and the corresponding amount under clause 72.13 or clause 86.3 of the Employment Services Deed 2012-2015 have not previously been claimed in respect of the NEIS Transitioned Prospective Participant; and/or~~

~~(e) — the NEIS Provider claims each of those amounts on or after (but no more than 56 days after) the day on which the requirements relating to each of those amounts is satisfied, and by submitting a claim to the Department on the Department's IT Systems in accordance with any Guidelines.~~

Appendix F of Attachment 1 - Non-Payable Outcome/Unsuitable

Annexure A1 – Definitions

'Non-Payable Outcome' means one or more of the following:

- (a) Employment, including a retail position, involving nudity or in the sex industry;

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

- (a) a position, including a retail position, involving nudity or in the sex industry;

Appendix G of Attachment 1 - Provider IT System

Annexure A1 – Definitions

'Provider IT System' means an information technology system:

- (a) supplied to the Provider by a Third Party IT Provider; or
- (b) built or configured in-house by the Provider, including with the assistance of a Third Party IT Provider,

to ~~replace or~~ be an adjunct to the Department's IT Systems.

Appendix H of Attachment 1 - Stronger Participation Incentive Measure

Annexure A1 – Definitions

'SPI Measure' means the 'Stronger Participation Incentives for Job Seekers under 30' measure announced in the 2014-2015 Budget as amended by the 'Streamlining Intensive Servicing for Young Job Seekers' measure announced in the Mid-Year Economic and Fiscal Outlook 2015-2016.

'SPI Participant' or 'Stronger Participation Incentives Participant' means a Stream A (SPI) Participant and/or a Stream B (SPI) Participant.

~~'Stronger Participation Incentives for Job Seekers under 30 measure' or 'SPI measure' means the measure of that name announced in the 2014-2015 Budget.~~

...

CHAPTER B2 – SPECIFIC EMPLOYMENT PROVIDER SERVICES

Reader's guide

Employment Provider Services are comprised of Services under three Streams – Streams A, B and C.

A Stream Participant who is subject to ~~the Stronger Participation Incentives ('SPI') for Job Seekers under 30 measure~~ the SPI Measure can receive Employment Provider Services under either Stream A or Stream B (depending on their Assessment). Services for this group are different from Services for other Participants in these Streams. Accordingly, Stream Participants in Stream A are identified in this Deed as Stream A (SPI) Participants and Stream A (General) Participants, while those in Stream B are identified as Stream B (SPI) Participants and Stream B (General) Participants. The Services provided to Stream A (SPI) Participants and Stream B (SPI) Participants (together 'SPI Participants') are similar. Accordingly, Services for these two groups are dealt with together under Section B2.1.

The timing of the Services phases for Stream B (General) Participants and Stream C Participants are identical. Accordingly, Services for these two groups are dealt with together under Section B2.3. The Services provided to Stream A (General) Participants are different from all of the above, so Services for this group are dealt with separately under Section B2.2. Volunteers receive Services as Stream A (General) Participants for a maximum of six months and then are automatically exited from the Services.

Section B2.1 – Stronger Participation Incentives Participants

Reader's guide

Following their Initial Interview, ~~identified Fully Eligible Participants (with Mutual Obligation Requirements who are aged under 30 years) ('SPI Participants')~~ will enter a Case Management Phase for six months. They then generally move into the SPI Work for the Dole Phase for six months, and then back into the SPI Case Management Phase and so on until they ~~reach 30 years of age or~~ are otherwise no longer an SPI Participant.

The Provider must provide additional services to 'SPI Participants to help them can gain work related skills and find a job. This includes appointments with SPI Participants each month to discuss the Job Searches that they have undertaken in the previous month and referral of SPI

Participants to jobs that the Provider has identified, as specified in clause 84.1(b). These appointments will also allow the early identification of any failures by SPI Participants to meet their Mutual Obligation Requirements. Where the Provider reports non-compliance to the Department of Human Services, penalties may be imposed.

SPI Participants will be expected to undertake Work for the Dole activities for 25 hours per week for 26 weeks after they have been in employment services for six months.

102. SPI Participants

102.1 Subject to clause 105 and in addition to Services specified:

- (a) under Chapter B1, including clause 84.1(b) in relation to Appointments;
- (b) in the Service Delivery Plan; and
- (c) in the Provider’s tender response to the request for tender for this Deed,
the Provider must for each Stream A (SPI) Participant and Stream B (SPI) Participant:
 - (d) provide Services after their initial SPI Case Management Phase taking into account their ~~availability of eligibility for the~~ Youth Wage Subsidy and a RATTUAI Payment as provided for under clauses 89 and 90;
 - (e) during each SPI Work for the Dole Phase, provide Activities for 25 hours per week; and
 - (f) monitor in accordance with clause 114 whether they have met their Mutual Obligation Requirements, and manage any failure to do so in accordance with clause 115.

...

123. Administration Fees

...

123.7 Where an SPI Participant ceases, or will cease at a known point in time, to be ~~subject to the Stronger Participation Incentives for Job Seekers under 30 measure~~ SPI Participant, and the Administration Fee for the Administration Fee Period in which this event occurs or will occur: ...

Annexure A1 – Definitions

'Non-regional Location' means a location identified on the Department's IT Systems as not attracting a regional loading ~~as specified in Annexure B2.~~

Note: Table 4 of Annexure B2 indicates the locations that do not attract a regional loading, however, to the extent of any inconsistency between this table and the Department's IT Systems with respect to relevant locations, the Department's IT Systems prevails.

'Period of Service' means a period:

- (a) which begins on Commencement of a Stream Participant in a Stream;
- (b) ~~which halts when the Stream Participant is Suspended and recommences when the Suspension ends;~~
- (c) which ends when the Stream Participant is either:
 - (i) Exited; or
 - (ii) moved into another Stream, except in the case of an SPI Participant who moves from Stream A to Stream B and remains an SPI Participant; or
 - (iii) for Volunteers, when they have received a total of six months of Employment Provider Services including from any other Employment Provider; and
- (d) during which the Provider must provide Employment Provider Services to the Stream Participant.

'Regional Location' means a location identified on the Department's IT Systems as attracting a regional loading ~~as specified in Annexure B2.~~

Note: Table 4 of Annexure B2 indicates the locations that attract a regional loading, however, to the extent of any inconsistency between this table and the Department's IT Systems with respect to relevant locations, the Department's IT Systems prevails.

...

97. NEIS Services

97.1 Where the Provider and a Stream Participant who has been identified as eligible for NEIS on the Department's IT Systems have agreed that it may be appropriate for the Stream Participant to receive NEIS Services, the Provider must:

- (a) advise the Stream Participant of the matters which they must satisfy before they can receive NEIS Services, as specified in any Guidelines;
- (b) ~~subject to clause 97.2, refer the Stream Participant to a NEIS Provider in the Employment Region in which the Stream Participant proposes to conduct his or her NEIS Business; identify the location in which the Stream Participant proposes to conduct his or her NEIS Business and:~~

- (i) where the location is within an Employment Region in which the Provider is a NEIS Provider, the Provider may choose to provide the relevant NEIS Services itself or refer the Stream Participant to another NEIS Provider in the relevant Employment Region; or
- (ii) where the location is not within an Employment Region in which the Provider is a NEIS Provider, refer the Stream Participant to a NEIS Provider in that location;

...

~~97.2—Where the Provider is a NEIS Provider in the Employment Region in which the Stream Participant proposes to conduct his or her NEIS Business, the Provider may choose to provide the relevant NEIS Services itself or refer the Stream Participant to another NEIS Provider in the relevant Employment Region in accordance with clause 97.1(b).~~

...

Annexure B2 – Payments and Employment Fund credits

EMPLOYMENT REGIONS and REGIONAL LOADING

Table 4 of this Annexure B2 is merely indicative of the locations that do and do not attract a regional loading, and to the extent of any inconsistency between this table and the Department’s IT Systems with respect to relevant locations, the Department’s IT Systems prevails.

Table 4—Employment Regions and Regional loading

Employment Region	No Regional loading	Regional loading
New South Wales		
Capital Region	✓	
Central West		✓
Far West Orana (includes Broken Hill)		✓
Hunter	✓	
Illawarra South Coast	✓	South from Kiama
Mid North Coast		✓
Murray Riverina		✓
New England and North West		✓
North Coast (excludes Norfolk Island)		✓
Sydney East Metro	✓	
Sydney Greater West	✓	
Sydney North and West	✓	
Sydney South West	✓	
Victoria		

Employment Region	No Regional loading	Regional loading
Ballarat		✓
Barwon	✓	
Bendigo		✓
Gippsland		✓
Goulburn/Murray		✓
Inner Metropolitan Melbourne	✓	
North Eastern Melbourne	✓	
North Western Melbourne	✓	
South Coast of Victoria		✓
South Eastern Melbourne and Peninsula	✓	
Western Melbourne	✓	
Wimmera Mallee		✓
Queensland		
Brisbane South East	✓	
Cairns		✓
Darling Downs		✓
Fitzroy		✓
Gold Coast	✓	
Mackay		✓
Somerset	✓	
Townsville (includes Mt Isa)		✓
Wide Bay and Sunshine Coast		✓
Wivenhoe	✓	
South Australia		
Adelaide North	✓	
Adelaide South	✓	Kangaroo Island
Mid North SA		✓
Murray and South East		✓
North West Country SA		✓
Western Australia		
Broome		✓
Esperance		✓
Geraldton		✓
Great Southern—Wheatbelt		✓
Kalgoorlie		✓

Employment Region	No Regional loading	Regional loading
Perth—North	✓	
Perth—South	✓	
South West WA		✓
Tasmania		
Hobart and Southern Tasmania		✓
North and North Western Tasmania		✓
Northern Territory		
Darwin (includes Alice Springs)	✓	Alice Springs

Annexure A1 – Definitions

‘Work for the Dole Coordinator’ means a contractor, including relevant Specified Personnel, engaged by the Department to deliver Work for the Dole Coordinator services ~~in an Employment Region~~ under the *jobactive Deed 2015-2020 - Work for the Dole Coordinator*.

...

108. Work for the Dole

Advertised Work for the Dole Places

108.7 If the Provider claims a Work for the Dole Place referred to in clause 108.6, the Provider must in accordance with any Guidelines:

- (a) ~~identify and assign a~~ immediately record the relevant Participant’s Job Seeker ID to the Work for the Dole Place; and
- (b) commence ~~a Fully Eligible the relevant~~ Participant in that place within ten Business Days of the start date of the relevant Work for the Dole Place.

108.8 If the Provider claims a Work for the Dole Place, which is advertised on the Department’s IT Systems and which is available to commence immediately, the Provider must in accordance with any Guidelines:

- (a) ~~identify and assign a~~ immediately record the relevant Participant’s Job Seeker ID ~~to~~ against the Work for the Dole Place ~~on the Department’s IT Systems~~; and
- (b) commence ~~the Fully Eligible the relevant~~ Participant in the Work for the Dole Place within ten Business Days of the Provider claiming it.

...

Training

108.16 The Provider must ensure that each Fully Eligible Participant participating in Work for the Dole activities receives the training required for the specific activity, ~~including as specified in any relevant risk assessment~~, or as otherwise specified in any Guidelines.

...

Insurance for Work for the Dole activities exclusively on private property

108.22 Where the Provider cannot ensure that there is public liability insurance in accordance with clause 108.21, the Provider must not provide, Broker or Purchase the activities without the Department’s prior written approval.

Note: The Department has purchased personal accident insurance, and public and products liability insurance that covers Stream Participants who are undertaking particular approved Activities, in employment assistance programmes. The Provider should refer to the Insurance Readers Guide and insurance policies on the Provider Portal for further details.

The Department has also purchased public and products liability insurance for Activity Host Organisations, owners of private property, ~~or~~ land lease holders and farms who are receiving

assistance on their property from ~~Stream Participants~~ job seekers undertaking ~~Activities~~ Work for the Dole – Community Support Projects. This insurance covers liability where a claim is denied under the Activity Host Organisation, owner or lease holder or farm’s own public liability insurance policy because that policy excludes particular claims arising in relation to Work for the Dole – Community Support Projects. A copy of this policy is available on the Provider Portal. The amount and form of these insurances is at the Department’s absolute discretion.

110. Work health and safety

110.2 The Provider must, in accordance with any Guidelines:

- (a) undertake a risk assessment:
 - (i) for all Voluntary Work and National Work Experience Programme Placements;
and
 - (ii) for Work for the Dole activities, but only if the Provider itself identifies and secures the relevant potential Work for the Dole Place; and
 - (iii) in any case, for each individual Stream Participant, with regard to their potential participation in any Work for the Dole activities, Voluntary Work or National Work Experience Programme Placements,
prior to the commencement of:
 - (iv) any such Activities; and
 - (v) each Stream Participant in such Activities; ~~and~~
- (b) retain Records of each risk assessment referred to in clause 110.2(a) and any action taken in accordance with the risk assessment, and provide the relevant Records to the Department upon request; ~~and~~
- (c) ensure that each Activity Host Organisation is obliged to immediately advise the Provider of any proposed or actual changes to the tasks being undertaken by a Participant involved in a Work for the Dole activity, Voluntary Work or a National Work Experience Programme Placement or the circumstances in which those tasks are being undertaken.

Annexure A1 – Definitions

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

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

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

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

- (q) Employment that contravenes Commonwealth, state or territory legislation or provides terms and conditions of employment which are inconsistent with the relevant workplace relations laws, or any instrument made under such laws, **excluding where the Employment has not been paid in accordance with any applicable Enterprise Agreement, Modern Award or the National Minimum Wage;**
- (r) Employment that pays a commission as either the entire remuneration or part of the remuneration, except where the commission being paid to the Stream Participant is in addition to an amount which is paid to the Stream Participant in accordance with any applicable Commonwealth, state or territory legislation and any applicable ~~Modern Award or the National Minimum Wage-order~~; ...

‘Unsuitable’ means that a ~~position Vacancy~~ is, in accordance with any Guidelines: ...

- (c) **except in relation to wage rates**, a position in contravention of Commonwealth, state or territory legislation or which involves terms and conditions of employment which are inconsistent with the relevant workplace relations laws, or any instrument made under such laws;
- (d) **in relation to wage rates, a position sourced by the Provider where the wage rate paid is not at least equivalent to the rate specified in clause 91.3(a)(i) or (ii), as relevant;**
- (e) a position in a training course;
- (f) a position in a programme funded by the Commonwealth or by a state or territory government as advised by the Department;
- (g) in another country, regardless of whether the salary is paid in Australian dollars or by an Australian company;
- (h) a position involving illegal activity;
- (i) a position involving income or funds from gambling deemed to be inappropriate by the Department;
- (j) a position that pays a commission as either the entire remuneration or part of the remuneration, except where the commission being paid to the Participant is in addition to an amount which is paid to the Participant in accordance with any applicable Commonwealth, state or territory legislation and any applicable ~~Modern Award or the National Minimum Wage-order~~; or
- (k) a position that the Department has advised is not acceptable.

84. Contacts

84.4 For each Stream Participant on the Provider’s caseload on 30 June 2016, the Provider must, no later 30 September 2016, provide the Stream Participant with details of the current National Minimum Wage, the Fair Work Ombudsman website (including the Pay and Conditions Tool) and contact details for the Fair Work Ombudsman.

85. Initial Interviews

85.1 The Provider must, during the Initial Interview for each Stream Participant (except a ParentsNext Volunteer): ...

- (f) prepare or update a Job Plan for them; ~~and~~
- (g) provide them with details of the current National Minimum Wage, the Fair Work Ombudsman website (including the Pay and Conditions Tool) and contact details for the Fair Work Ombudsman; and
- (h) otherwise comply with any Guidelines.

...

91. Vacancy management

91.3 The Provider must:

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

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

- (a) comply with clause 91.3(a) in relation to Unsubsidised Self Employment, Pre-existing Employment or any position sourced by a Participant themselves;*
- (b) for clause 91.3(a), ensure that the relevant position is paid in accordance with any applicable Enterprise Agreement; or*
- (c) verify that the Employment was paid in accordance with any applicable Enterprise Agreement, Modern Award or the National Minimum Wage at the point of claiming a related Outcome.*

Outcomes Claim Period

125. Outcome Payments

125.1 Subject to this Deed, the Department will pay the Provider the Outcome Payments in Table 1A or Table 1B of Annexure B2, as applicable, where:

...

(f) ... 2015,;

provided that:

(g) where the relevant Outcome Period ended on or before 4 May 2016, the Provider has rendered a Tax Invoice for the relevant Outcome Payment to the Department within 56 days of the end of the relevant Outcome Period and the Department accepts the Tax Invoice;:

~~(i) for Employment Outcomes, the end of the relevant 4 Week Period, 12 Week Period or 26 Week Period; and~~

~~(ii) for Education Outcomes, as relevant:~~

~~(A) the end of six months in a Qualifying Education Course;~~

~~(B) subject to clause 125.1(g)(ii)(C), the completion date of a Qualifying Training Course; and~~

~~(C) where the Qualifying Training Course is for fewer than 12 weeks in duration, and the course leads directly to Employment that is related to the course within eight weeks of completion of the course, and the Stream Participant achieves a 4 Week Period Employment Outcome, the completion date of the 4 Week Period Employment Outcome,~~

~~and the Department accepts the Tax Invoice; and~~

(h) where the relevant Outcome Period ended on or after 5 May 2016 or any date otherwise specified by the Department, the Provider has rendered a Tax Invoice for the relevant Outcome Payment to the Department within 12 months of the Completion Date and the Department accepts the Tax Invoice;

(i) data and/or Documentary Evidence is entered into the Department's IT Systems...

Pay Slip Verified Outcome Payments

125.3 Where the Provider considers that:

(a) all requirements for payment of an Outcome Payment for an Employment Outcome under clause 125.1(b) have been met; but

(b) the data in the Department's IT Systems provided to the Department by DHS does not correctly record or reflect the details of that Employment Outcome,

the Provider may claim a Pay Slip Verified Outcome Payment from the Department if:

- (c) the Employment Outcome Start Date for the Employment Outcome is entered on the Department's IT Systems in accordance with any Guidelines;
- (d) ~~where the relevant Outcome Period ended on or before 4 May 2016~~, the Provider has rendered a Tax Invoice for the Pay Slip Verified Outcome Payment to the Department within 56 days of the end of the relevant ~~Outcome Period 4-Week-Period, 12-Week-Period or 26-Week-Period~~ and the Department accepts the Tax Invoice; ~~and~~
- (e) ~~where the relevant Outcome Period ended on or after 5 May 2016 or any date otherwise specified by the Department~~, the Provider has rendered a Tax Invoice for the Pay Slip Verified Outcome Payment to the Department within 12 months of the Completion Date and the Department accepts the Tax Invoice; and
- (f) the Provider:
 - (i) holds and submits any Documentary Evidence as specified under clauses 15.4(a) and 16.2(a); and
 - (ii) complies with any procedural requirements specified in any Guidelines, at the time it makes the claim.

Limits on Outcome Payments

125.5 The Department will not pay the Provider, and the Provider must not claim, an Outcome Payment under clauses 125.1 or 125.3:

...

- (f) except as otherwise provided for in any Guidelines, if the Outcome Period for the Outcome overlaps with the Outcome Period for another Outcome that has already been claimed in relation to the same Stream Participant by any Employment Provider, including the Provider; ~~and~~
- (g) ~~where the relevant Employment Outcome Start Date or Education Outcome Start Date occurs after the Completion Date; and~~
- (h) in any other circumstances specified in any Guidelines.

Appendix N of Attachment 1 – Harvest Labour Services

135. Harvest Labour Services - Fees

Harvest Placement Fees

135.1 Subject to this Deed, including clauses 135.2 to 135.4, the ~~Provider may claim, and the~~ Department will pay, a Harvest Placement Fee of \$49.50 ~~to the Provider~~ for every Harvest Placement completed by the Provider during a Harvest Period, ~~provided that:~~

- (a) ~~where the Harvest Placement ended on or before 4 May 2016, the Provider claims the Harvest Placement Fee no more than 56 days after the day of the achievement of a the Harvest Placement; and~~
- (b) ~~where the Harvest Placement ended on or after 5 May 2016 or any date otherwise specified by the Department, the Provider claims the Harvest Placement Fee within 12 months from the Completion Date; and~~
- (c) ~~provided that each the~~ Harvest Placement is recorded on the Department's IT Systems.

Annexure A2 – Joint Charter of Deed Management

Employment Services Joint Charter of Deed Management

The Department of Employment and providers delivering services under the jobactive Deed 2015–2020, the jobactive Deed 2015–2020 - Work for the Dole Coordinator, **the jobactive Deed (Norfolk Island) 2016-2018**, and the Transition to Work Deed 2016-2020, agree to conduct themselves in accordance with this Joint Charter of Deed Management.

Section A2.2 – Some basic rules about Services

4. General Requirements

4.2 If the Provider becomes aware that: ...

the Provider must Notify the Department immediately of:

- (d) ~~the details of the requirements or undertakings which it is unable to satisfy or failed to comply with and the information which it did or did not provide as part of its tender response; and~~ if clause 4.2(a) applies, the details of the requirements or undertakings which it is unable to satisfy or failed to comply with;
- (e) if clause 4.2(b) applies, the details of the information in its tender response which is misleading or deceptive, or otherwise incorrect or inaccurate;
- (f) if clause 4.2(c) applies, the details of the information which it failed to provide in its tender response; and
- (g) any other information that the Department requests.

...

Section A2.3 – Some basic rules about financial matters

15. General

15.5 It is a further precondition of the Provider’s entitlement to be paid a Payment that it:

...

- (b) immediately ~~n~~Notifies the Department if it ceases to have a valid ABN;

...

- (e) immediately ~~n~~Notifies the Department of any changes to its GST status; and

...

19. Overpayment and double payment

Overpayment

19.1 If, at any time, ~~the Department determines that~~ an overpayment by the Department ~~has~~ occurred ~~for any reason~~, including where a Tax Invoice is found to have been incorrectly rendered after payment, or a payment has been made in error, then the Department may, at its absolute discretion, recover some or all of the relevant payment amounts from the Provider as a debt in accordance with clause 21, without prejudice to any other rights that the Department may have under this Deed or the law.

Double payment

19.2 The Provider warrants that **neither it, and nor** any Related Entity**ies**, are **not** entitled to payment from the Department, other Commonwealth sources or state, territory or local government bodies for providing **services that are** the same **as**, or similar **to, the** services as provided under this Deed, and the Department may require the Provider to provide evidence, in a form acceptable to the Department, which proves that the Provider is not so entitled.

...

32. Access and security

Cybersafety Policy

32.21 For the purposes of **this** clauses ~~32-32.21~~ **to 32.25**:

...

35. Personal and Protected Information

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

...

- (d) 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 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;
- ...
- (j) if the Provider suspends or terminates Personnel:
 - (i) to remove any access that the Personnel have to any relevant Personal Information; **and**
 - (ii) to require that the Personnel return to the Provider or the Department any relevant Personal Information held in the Personnel's possession; **and**
 - (iii) it must remind the Personnel of their relevant obligations under this Deed; **and**

...

Annexure A1 – Definitions

'12 Week Period' means, for Employment which satisfies the requirements of an Employment Outcome, a period of 12 Consecutive Weeks:

- (a) from the Employment Outcome Start Date; and
- (b) which does not overlap with **any** the Outcome Period for any other Outcome that has been claimed in relation to the relevant Stream Participant by any Employment Provider, except a

4 Week Period that begins from the same Employment Outcome Start Date or as otherwise provided in any Guidelines.

‘Commonwealth Coat of Arms’ means the Commonwealth Coat of Arms as set out at:

http://www.dpmc.gov.au/guidelines/docs/CCoA_guidelines.pdf

http://www.dpmc.gov.au/sites/default/files/publications/Commonwealth_Coat_of_Arms_Information_and_Guidelines.pdf

‘Indigenous Outcomes Targets’ means the Provider’s requisite proportion of 4 Week Period, 12 Week Period and 26 Week Period Full Outcomes for Aboriginal or Torres Strait Islander persons, as Notified by the Department to the Provider ~~from time to time~~.

‘Outcome Period’ means:

- (a) for an Employment Outcome, the period from the relevant Employment Outcome Start Date to the achievement of a 4 Week Period, 12 Week Period or 26 Week Period, as relevant; and
- (b) for an Education Outcome:
 - (i) six months of a Qualifying Education Course; or
 - (ii) the period from commencement to completion of a Qualifying Training Course ~~that is 12 weeks or more in duration; or~~
 - (iii) ~~the period from commencement of a Qualifying Training Course that is less than 12 weeks in duration to the achievement of the relevant 4 Week Period Employment Outcome, and~~
- (c) for a NEIS Post-Programme Outcome, the period of 13 weeks immediately following cessation of the relevant NEIS Participant Agreement.

...

78. Direct Registration of Stream Participants without a Referral

78.1 Subject to clauses ~~75.3~~, where a person presents to the Provider without a Referral, the Provider must confirm their eligibility for Direct Registration in accordance with any Guidelines, and if eligibility is confirmed, Directly Register and immediately provide Employment Provider Services to that Stream Participant in accordance with this Deed, including any Guidelines.

...

83. Appointments with Stream Participants

83.2 Where:

- (a) ~~DHS fails to make an Appointment in the Electronic Diary, for a ParentsNext Volunteer that is Referred to the Provider, within five Business Days of the ParentsNext Volunteer’s Referral;~~

~~(a)(b)~~ a Stream Participant Directly Registers with the Provider; or

~~(b)(c)~~ the Provider or Stream Participant needs to reschedule an Appointment,

the Provider must make an Appointment with the Stream Participant at the next available opportunity.

83.3 Where a Stream Participant has an Appointment with the Provider, the Provider must, in accordance with this Deed including any Guidelines, ~~meet with the Stream Participant on the date and at the time of the Appointment as recorded in the Provider's Electronic Diary~~ ensure that the Appointment is booked in the Provider's Electronic Diary, and meet with the Stream Participant on the date and at the time of the Appointment.

Note: The Electronic Diary is for the management of Appointments only. Where a Stream Participant is required to attend at the Provider's site to participate in an Activity, this must not be booked in the Electronic Diary. An Activity includes requiring one or more job seekers to attend in a supervised setting over a longer period of time than an Appointment and is for the purposes of learning or undertaking one or more tasks designed to improve their employment prospects. An activity includes, but is not limited to, formal education and training, informal training such as resume building, or on site group or individual job search sessions.

88. Employment Fund

88.14 Where a Stream Participant transfers from the Provider:

...

- (b) at the Department's direction in accordance with clause 81.1(d), ~~-(i)~~ 50 per cent of the General Account credit made available to the Provider in respect of the Stream Participant (as per Table 3 of Annexure B2 for their current Stream) ~~and~~, will be transferred to or from the Provider in accordance with any Guidelines; and ...

99. Performance Indicators

Employment Provider Services KPIs

99.1 ~~For the purposes of clause 4.1(c), t~~The Employment Provider Services KPIs are as follows: ...

...

Annexure B2 – Payments and Employment Fund credits

ADMINISTRATION FEES AND WORK FOR THE DOLE FEES

Table 2A – Administration Fees

	(1) Fee	(2) Fee with regional loading
SPI Participants	\$350	\$438
All other Stream Participants	\$250	\$313

Note 1: In accordance with clause 75, Volunteers will receive a maximum of six months of Employment Provider Services including from any other Employment Provider and the Provider will ~~only~~ be entitled to an Administration Fee in respect of its servicing of any Volunteer during that six months of service.