



**Australian Government**  

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**Attorney-General's Department**

# **Panel Head Agreement**

**A Deed**

**Between**

**the Commonwealth of Australia as represented by  
the Attorney-General's Department**

**And**

**DFC Legal Pty Ltd trading as  
lawyerbank**

**for the Provision of Legal Services to the  
Australian Government**

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## Parties

The **COMMONWEALTH OF AUSTRALIA** as represented by the Attorney-General's Department ABN 92 661 124 436, 3-5 National Circuit, Barton ACT 2600 (**AGD**);

and

**DFC Legal Pty Ltd trading as lawyerbank** ABN 23 159 266 583, C/-82 Wentworth Avenue, Kingston ACT 2604 (**Legal Services Provider**).

## Recitals

- A AGD has established a Panel for the provision of Legal Services (**Services**) to the Australian Government to which the Legal Services Provider has been appointed.
- B The Legal Services Provider has represented to the Commonwealth in respect of this Head Agreement that it has the ability to provide the Services to Agencies set out in **Schedule 3 (Service Areas and Key Personnel)**.
- C The Legal Services Provider acknowledges and agrees that AGD will administer this Head Agreement and the Panel for the benefit of all Agencies.
- D The Legal Services Provider offers to provide Services on the terms and conditions contained in this Head Agreement and any Contract formed under this Head Agreement.
- E An Agency may acquire Services from the Legal Services Provider by issuing the Legal Services Provider with an Order for Services (**Order**).

# Operative Provisions

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## 1 Definitions and interpretation

### 1.1 Definitions

1.1.1 In this Head Agreement and any Contract, except where the contrary intention is expressed, the following definitions are used:

<b>ABN</b>	the Australian Business Number issued by the Australian Taxation Office.
<b>Accounting Standards</b>	the standards of that name maintained by the Australian Accounting Standards Board (referred to in section 227 of the <i>Australian Securities and Investments Commission Act 2001</i> (Cth)); or other accounting standards which are generally accepted and consistently applied in Australia.
<b>Additional Terms</b>	any terms and conditions additional to those stated in this Head Agreement and agreed by the Legal Services Provider and an Agency and included in an Order.
<b>AGD</b>	the Commonwealth Attorney-General's Department, and includes any department, agency or authority of the Commonwealth which is from time to time responsible for administering the Panel.
<b>AGD Senior Executive</b>	the person identified as holding this role in Item 3 of <b>Schedule 1 (Head Agreement Details)</b> , or as otherwise advised by AGD from time to time.
<b>Agency</b>	any Commonwealth department, agency or body subject to the <i>Public Governance, Performance and Accountability Act 2013</i> (Cth) (PGPA Act) that is required, or elects, to procure Legal Services from the Panel.
<b>Agency Material</b>	any Material provided by an Agency to the Legal Services Provider for the purposes of a Contract, or derived at any time from that Material.
<b>Agency Representative</b>	the person nominated by an Agency to represent the Agency as identified in an Order.
<b>Areas of Law</b>	an area or areas of law specified in <b>Schedule 2 (Statement of Requirement)</b> and <b>Schedule 3 (Service Areas and Key Personnel)</b> , to which the Legal Services Provider has been accepted to provide Services, as amended from time to time in accordance with clause 4.3.2.
<b>Appendix</b>	each of the appendices to the Head Agreement, including to a Schedule.
<b>Bundling Arrangement</b>	means the provision of one or more Services as specified in an Order.

<b>Business Day</b>	means in a location at which a right or obligation is to be performed pursuant to this Head Agreement or any Contract, a day not being a Saturday, Sunday or a public holiday in that location, or if no such location is specified or reasonably ascertainable, in Canberra.
<b>Commencement Date</b>	the date in <b>Item 1 of Schedule 1 (Head Agreement Details)</b> .
<b>Commonwealth</b>	means the Commonwealth of Australia.
<b>Commonwealth Material</b>	any Material provided by an Agency to the Legal Services Provider for the purposes of a Contract, or derived at any time from that Material.
<b>Commonwealth Procurement Rules (CPRs)</b>	the <i>Commonwealth Procurement Rules</i> issued by the Minister for Finance under section 105B of the <i>Public Governance, Performance and Accountability Act 2013</i> (Cth) as amended from time to time.
<b>Confidential Information</b>	<p>information that is protected by privacy, secrecy and non-disclosure provisions or by its nature confidential, and</p> <p>(a) in the case of AGD or an Agency is:</p> <p style="padding-left: 40px;">i Contract Material, not including Existing Material; or</p> <p style="padding-left: 40px;">ii Agency Material, and</p> <p>(b) in the case of the Legal Services Provider is listed at <b>Schedule 9 (Legal Services Provider's Confidential Information)</b> and/or described in an Order,</p> <p>but does not include information which is or becomes public knowledge other than by a breach of this Head Agreement, or any Contract, or law.</p>
<b>Conflict of Interest</b>	any matter, circumstance, interest, or activity affecting the Legal Services Provider, its Personnel or Subcontractors which may or may appear to impair the ability of the Legal Services Provider to provide the Legal Services to an Agency diligently and independently.
<b>Contract</b>	a contract for the provision of Legal Services formed between the Legal Services Provider and an Agency by the Agency issuing an Order to the Legal Services Provider in accordance with this Head Agreement.
<b>Contract Material</b>	<p>any Material:</p> <p>(a) created for the purposes of a Contract;</p> <p>(b) provided or required to be provided to the Agency as part of the Ordered Services; or</p> <p>(c) derived at any time from the Material referred to in (a) or (b) above,</p> <p>but does not include the Legal Services Provider's internal working papers.</p>
<b>Corporations Act</b>	the <i>Corporations Act 2001</i> (Cth).

<b>Counsel</b>	a barrister from the private bar, or a legal practitioner engaged as a barrister, briefed to advise or appear in tribunal or court proceedings, but does not include the Solicitor-General of the Commonwealth.
<b>Eligible Data Breach</b>	has the meaning it has in the Privacy Act.
<b>Existing Material</b>	<p>(a) any pre-existing Material; and</p> <p>(b) any other Material, created independently of an Order after the Order Commencement Date,</p> <p>which is made available to the Agency by the Legal Services Provider for the purpose of a Contract, on or following the Commencement Date, including but not limited to the Legal Services Provider's templates and precedents.</p>
<b>Fees</b>	the Legal Services Provider's fees listed in <b>Schedule 4 (Fees and Disbursements)</b> and in an Order.
<b>GST</b>	has the meaning it has in the <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth).
<b>Head Agreement</b>	this head agreement between AGD and the Legal Services Provider.
<b>Head Agreement Period</b>	the period referred to in clause 2.3 and any extension periods.
<b>Indigenous Enterprises</b>	a business that is 50 per cent or more owned by Indigenous Australians.
<b>Intellectual Property</b>	<p>includes:</p> <p>(a) all copyright (including rights in relation to phonograms and broadcasts);</p> <p>(b) all rights in relation to inventions, plant varieties, trademarks (including service marks), designs and circuit layouts; and</p> <p>(c) all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields,</p> <p>but does not include:</p> <p>(d) Moral Rights;</p> <p>(e) the non-proprietary rights of performers; or</p> <p>(f) rights in relation to Confidential Information.</p>
<b>Key Personnel</b>	the Legal Services Provider's Personnel listed in <b>Schedule 3 (Service Areas and Key Personnel)</b> , updated from time to time in accordance with clause 6.2.

<b>Law</b>	any applicable law, without limitation, including common or customary law, equity, judgment, legislation, orders, regulations, Statutes, by-laws, ordinances or any other legislative or regulatory measures (including any amendment, modification or re-enactment of them).
<b>Legal Services Directions</b>	the Commonwealth Attorney-General's <i>Legal Services Directions 2017</i> issued under s 55ZF of the <i>Judiciary Act 1903</i> (Cth), as amended from time to time.
<b>Legal Services Provider's Representative</b>	the person identified in Item 4 of <b>Schedule 1 (Head Agreement Details)</b> , or as otherwise advised by the Legal Services Provider from time to time who will be: <ul style="list-style-type: none"> <li>(a) responsible for administering this Head Agreement on behalf of the Legal Services Provider; and</li> <li>(b) the key point of contact for Agencies to submit any RFQs and issue any Orders.</li> </ul>
<b>Legal Services Provider's Senior Executive</b>	the person identified as holding this role in Item 5 of <b>Schedule 1 (Head Agreement Details)</b> , or as otherwise advised by the Legal Services Provider from time to time.
<b>Legal Support Services</b>	the Services described under the heading Legal Support Services in <b>Schedule 2 (Statement of Requirement)</b> .
<b>Material</b>	anything in relation to which Intellectual Property rights arise.
<b>Moral Rights</b>	the following non-proprietary rights of authors of copyright Material: <ul style="list-style-type: none"> <li>(a) the right of attribution of authorship;</li> <li>(b) the right of integrity of authorship; and</li> <li>(c) the right not to have authorship falsely attributed.</li> </ul>
<b>National Pro Bono Target</b>	the National Pro Bono Target set by the Australian Pro Bono Centre – further information can be accessed at <a href="http://www.probonocentre.org.au">www.probonocentre.org.au</a> .
<b>Nominated Personnel</b>	the person or persons named in an Order to provide the Ordered Services to an Agency.
<b>Order</b>	an order in the form of <b>Schedule 6 (Order Template)</b> , or in another form issued by an Agency, to the Legal Services Provider for the provision of Legal Services, which may include a Bundling Arrangement.
<b>Order Commencement Date</b>	the date specified in an Order that the Ordered Services are to commence.
<b>Order Term</b>	the timeframe specified in an Order for the delivery of the Ordered Services.
<b>Ordered Services</b>	the Services described in an Order to be provided by the Legal Services Provider.



<b>Panel</b>	the Whole of Australian Government Legal Services Panel to which the Legal Services Provider has been appointed, as updated by AGD from time to time.
<b>Panel Manager</b>	the person identified as holding this role in Item 2 of <b>Schedule 1 (Head Agreement Details)</b> , or as otherwise advised by AGD from time to time.
<b>Panellist</b>	any legal services provider on the Panel, as appointed by AGD from time to time.
<b>Performance Management Framework</b>	the framework described in <b>Schedule 7 (Performance Management Framework and Service Levels)</b> .
<b>Personnel</b>	in relation to: <ul style="list-style-type: none"> <li>(a) the Legal Services Provider, any natural person who is a partner, officer, employee, agent or professional advisor of the Legal Services Provider or of a Subcontractor; and</li> <li>(b) AGD or an Agency, any natural person, other than a person referred to in paragraph (a), who is an officer, employee, agent or professional advisor of AGD or an Agency.</li> </ul>
<b>Personal Information</b>	has the meaning it has in the Privacy Act.
<b>Practice Areas</b>	the specialised subject areas within the Areas of Law as listed in <b>Schedule 2 (Statement or Requirement)</b> and <b>Schedule 3 (Service Areas and Key Personnel)</b> to which the Legal Services Provider has been accepted to provide Services, as amended from time to time in accordance with clause 4.3.2.
<b>Privacy Act</b>	the <i>Privacy Act 1988</i> (Cth).
<b>Pro Bono Work</b>	has the same meaning as 'pro bono legal services' as defined by the Australian Pro Bono Centre – further information on pro bono and the National Pro Bono Target Statement of Principles can be accessed at <a href="http://www.probonocentre.org.au">www.probonocentre.org.au</a> .
<b>Protective Security Policy Framework</b>	the <i>Protective Security Policy Framework</i> outlined at <a href="http://www.protectivesecurity.gov.au">www.protectivesecurity.gov.au</a> , including the Australian Government Information Security Manual outlined at <a href="http://www.cyber.gov.au/ism">www.cyber.gov.au/ism</a> .
<b>Request for Quote or RFQ</b>	a request by an Agency to the Legal Services Provider to provide a quotation for Services, in the format set out in <b>Schedule 5 (Request for Quote Template)</b> , or similar, or as otherwise agreed with the Agency.
<b>Service Levels</b>	the service levels contained in <b>Schedule 7 (Performance Management Framework and Service Levels)</b> .
<b>Services</b>	refer to the definition for Legal Services.
<b>Statement of Work</b>	the Services required by an Agency as described in a Request for Quote or an Order.

<b>Subcontractor</b>	a party engaged by the Legal Services Provider to perform any part of the Services under the Head Agreement or a Contract, and that party's directors, officers, employees, agents and consultants (as relevant).
<b>Tax Invoice</b>	has the meaning given under the <i>A New Tax System (Goods and Services Tax) Act 1999</i> .
<b>Value Add Services</b>	Services that the Legal Services Provider will provide to AGD and/or Agencies at no cost as set out in clause 10.2 and <b>Schedule 4 (Fees and Disbursements)</b> .

## 1.2 Interpretation

1.2.1 In this Head Agreement and any Contract, except where the contrary intention is expressed:

- (a) a reference to this Head Agreement is to clauses 1 to 31, and includes the Schedules (and any Appendixes to the Schedules) as the context requires;
- (b) a reference to a Contract is to a Contract formed in accordance with clause 11 and includes the terms of the Head Agreement;
- (c) a reference to AGD means AGD as a party to the Head Agreement;
- (d) a reference to an Agency includes AGD, where AGD issues an Order to a Legal Services Provider or where clause 4.6 applies and the Legal Services Provider is providing legal services to AGD;
- (e) the singular includes the plural and vice versa, and a gender includes other genders;
- (f) another grammatical form of a defined word or expression has a corresponding meaning;
- (g) a reference to a clause, paragraph, Schedule or Appendix is to a clause or paragraph of, or Schedule or Appendix to, this Head Agreement or any Contract and a reference to this Head Agreement or any Contract includes any Schedule or Appendix to this Head Agreement or the Contract, as the context requires;
- (h) a reference to a clause, section or paragraph includes a reference to a subclause of that clause, subsection of that section or subparagraph of that paragraph;
- (i) a reference to a document, publication, standard, Commonwealth policy or instrument is a reference to the document, publication, standard, Commonwealth policy or instrument as altered, supplemented or replaced from time to time;
- (j) a reference to A\$, \$A, AUD, dollar or \$ is to Australian currency unless stated otherwise;
- (k) a reference to time is to the time in the place where the obligation is to be performed unless otherwise expressly stated;
- (l) a reference to a party is to a party to this Head Agreement or any Contract as the context requires, and a reference to a party to a document includes the party's executors, administrators, successors and permitted assigns and substitutes;
- (m) a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;

- (n) if the Legal Services Provider is a trustee, the Legal Services Provider warrants that it has the power to perform its obligations under this Head Agreement and any Contract;
- (o) a reference to a statute, ordinance, code or other Law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (p) a word or expression defined in the Corporations Act or GST Act has the meaning given in the Corporations Act or GST Act, as applicable;
- (q) the meaning of general words is not limited by specific examples introduced by 'including', 'for example' or similar expressions;
- (r) any agreement, representation, warranty or indemnity by two or more parties (including where two or more persons are included in the same defined term) binds them jointly and severally;
- (s) any agreement, representation, warranty or indemnity in favour of two or more parties (including where two or more persons are included in the same defined term) is for the benefit of them jointly and severally;
- (t) a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this Head Agreement, the applicable Contract or any part of those documents;
- (u) if a day on or by which an obligation must be performed or an event must occur is not a Business Day in the relevant location, the obligation must be performed or the event must occur on or by the next Business Day in that location;
- (v) headings are for ease of reference only and do not affect interpretation; and
- (w) a reference to a matter being to the knowledge of a person means that the matter is to the best of the knowledge and belief of that person after proper inquiry including inquiry which a reasonable person would be prompted to make by reason of knowledge of a fact.

1.2.2 To the extent that the parties have not completed items in a Schedule or Appendix, unless otherwise stated in that Schedule or Appendix, that item will be taken to be 'not applicable' for the purpose of this Head Agreement and any Contract.

## Part A – Overview and Objectives

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### 2 Structure of this Head Agreement

#### 2.1 Overview

- 2.1.1 **Part A** of this Head Agreement provides an overview of the operation of the Panel, the term and effect of this Head Agreement.
- 2.1.2 **Part B** of this Head Agreement describes the process for an Agency to order Services under this Head Agreement.
- 2.1.3 **Part C** of this Head Agreement sets out general terms and conditions to apply to this Head Agreement and any Order issued under this Head Agreement.

#### 2.2 Order of Precedence

- 2.2.1 If there is inconsistency between any of the documents forming part of this Head Agreement, those documents will be interpreted in the following (descending) order of priority to the extent of any inconsistency:
  - (a) the terms of this Head Agreement;
  - (b) Schedule 2 (Statement of Requirement);
  - (c) Schedule 3 (Service Areas and Key Personnel);
  - (d) the other Schedules;
  - (e) the Appendices;
  - (f) the Annexures (if any);
  - (g) documents incorporated by reference.

#### 2.3 Head Agreement Period

- 2.3.1 This Head Agreement begins on the Commencement Date and continues until 30 June 2022 (**Initial Head Agreement Period**), unless terminated earlier in accordance with clause 25.
- 2.3.2 The Initial Head Agreement Period may be extended by AGD (at its sole discretion) providing written notice to the Legal Services Provider for a further two periods of one-year each (each an extension period).

### 3 Panel Structure

#### 3.1 Objectives of the Panel

- 3.1.1 The Legal Services Provider acknowledges that it is one of a number of Panellists on the Panel, that may be requested by an Agency to provide Legal Services.
- 3.1.2 The Legal Services Provider's continued inclusion on the Panel will be subject to the Legal Services Provider demonstrating:
  - (a) the maintenance of a high standard of quality and delivery of the Services by its Personnel which will be assessed against the Performance Management Framework and Services Levels in **Schedule 7 (Performance Management Framework and Service Levels)**; and
  - (b) compliance with all requirements specified in this Head Agreement.

## 4 Scope of this Head Agreement

### 4.1 Overview

4.1.1 This Head Agreement is a standing offer between AGD and the Legal Services Provider under which, on an as-required basis, any Agency may enter into a Contract with the Legal Services Provider by issuing an Order.

### 4.2 Role of AGD

4.2.1 AGD will manage the Panel and this Head Agreement for the benefit of all Agencies.

4.2.2 AGD's role is to do each of the following:

- (a) administer this Head Agreement;
- (b) approve any change to this Head Agreement;
- (c) monitor the Panellists' performance against **Schedule 7 (Performance Management Framework and Service Levels)**;
- (d) collect data from the Legal Services Provider; and
- (e) monitor and report on the operation of the Panel, including its operation, viability and cost savings (if any).

### 4.3 No Guarantee

4.3.1 This Head Agreement does not:

- (a) give the Legal Services Provider the right to be the sole service provider of any Services to any Agency;
- (b) oblige any Agency to procure any, or any particular quantity of, Services from the Legal Services Provider; or
- (c) prevent an Agency from obtaining services that are the same as, or similar to, the Services from any other Panellist or from a supplier that is not a Panellist.

4.3.2 AGD reserves the right to, at any time:

- (a) appoint additional service providers to the Panel;
- (b) add additional Areas of Law and/or Practice Areas to **Schedule 2 (Statement of Requirement)** and **Schedule 3 (Service Areas and Key Personnel)**, subject to the Legal Services Provider satisfactorily demonstrating its capability to provide these services; and
- (c) amend the arrangements with any other Panellist under this Panel.

### 4.4 Legal Services Provider's Acknowledgment

4.4.1 The Legal Services Provider acknowledges that it can only provide Services that substantially relate to the Services set out in **Schedule 3 (Service Areas and Key Personnel)**, unless otherwise agreed by the Panel Manager, or as otherwise agreed with AGD.

### 4.5 Legal Services Provider's Qualification

4.5.1 The Legal Services Provider warrants for the duration of this Head Agreement and any resulting Contract that it is a legal practitioner or practice, engaging in practice in Australia that complies with all applicable State or Territory Laws governing the legal profession, and is subject to the regulation of the relevant State or Territory law society.

## **4.6 Transitional Arrangements**

- 4.6.1 Where a Legal Services Provider is providing legal services to an Agency as at the Commencement Date, the Legal Services Provider agrees to provide those legal services as Services under the terms and conditions of this Head Agreement, if requested by an Agency.

## **5 Party Representatives**

### **5.1 Panel Manager and AGD Senior Executive**

- 5.1.1 The Panel Manager will represent AGD and will administer this Head Agreement on behalf of the Commonwealth and each Agency.
- 5.1.2 The Panel Manager has authority to deal with the Legal Services Provider in relation to the Legal Services Provider's responsibilities under this Head Agreement.
- 5.1.3 The AGD Senior Executive has authority to deal with the Legal Services Provider in relation to important or significant matters (as determined by AGD including, for example, the resolution of disputes) and any other matters requested by the Panel Manager in relation to this Head Agreement.

### **5.2 Legal Services Provider's Representative**

- 5.2.1 The Legal Services Provider's Representative will represent the Legal Services Provider and is the primary contact for AGD under this Head Agreement.
- 5.2.2 The Legal Services Provider's Representative, and any other representative(s) appointed by the Legal Services Provider for a specific Agency, will be the key point of contact for Agencies to submit any RFQs and issue any Orders.
- 5.2.3 The Legal Services Provider is responsible for ensuring that the contact details in **Schedule 1 (Head Agreement Details)** for the Legal Services Provider's Representative are correct and current.
- 5.2.4 If the Legal Services Provider's Representative is not a senior person with the Legal Services Provider's organisation, the Legal Services Provider must provide an escalation point to a senior person (Legal Services Provider's Senior Executive), who has the authority to deal with AGD in relation to important or significant operational matters (as determined by AGD and including, for example, the resolution of disputes).
- 5.2.5 The Legal Services Provider's Representative and the Legal Services Provider's Senior Executive are Key Personnel for the purposes of clause 6.2.

## **6 Legal Services Provider Personnel**

### **6.1 General**

- 6.1.1 The Legal Services Provider must, at its own cost, use such Personnel as are necessary to enable it to fulfil its obligations under this Head Agreement.
- 6.1.2 The Legal Services Provider must:
- (a) provide such information as can be lawfully provided and which is reasonably requested by AGD or an Agency concerning the Personnel the Legal Services Provider is using, or proposes to use, in performing its obligations under this Head Agreement or an Order;

- (b) ensure its Personnel comply with the Legal Services Provider's obligations in this Head Agreement and any Order;
- (c) ensure that, in connection with any Services performed in Australia, its Personnel are at all times:
  - i. Australian citizens; or
  - ii. in the case of persons who are not Australian citizens, entitled to work in Australia; and
- (d) ensure its Personnel, when on an Agency's premises or when accessing an Agency's facilities and information, comply as necessary with the reasonable requirements and directions of the Agency with regard to conduct, behaviour, safety and security (including submitting to security checks or clearances as required and complying with any obligation imposed on an Agency by Law).

## **6.2 Key Personnel**

- 6.2.1 The Key Personnel are identified in **Schedule 3 (Service Areas and Key Personnel)**.
- 6.2.2 The Legal Services Provider must notify AGD as soon as the Legal Services Provider is aware of any changes to any Key Personnel.
- 6.2.3 The Legal Services Provider must request approval from AGD of any proposed additional or replacement Key Personnel, in the form at **Appendix 1 to Schedule 3 (Key Personnel Request for Approval Form)**, to allow AGD to determine its approval or otherwise, of the inclusion of the proposed new or replacement Key Personnel.
- 6.2.4 The Legal Services Provider must, at the request of AGD acting in its absolute discretion, remove Key Personnel from **Schedule 3 (Service Areas and Key Personnel)**.
- 6.2.5 Subject to approval granted under clause 6.2.3, the Legal Services Provider must provide AGD with an updated **Schedule 3 (Service Areas and Key Personnel)** listing the current Key Personnel within 10 days of any approved changes to the Key Personnel.
- 6.2.6 Notwithstanding clause 30.2, the parties acknowledge that the updated **Schedule 3 (Service Areas and Key Personnel)** provided in accordance with clause 6.2.5 will be deemed to be included in this Head Agreement.

## **6.3 Nominated Personnel**

- 6.3.1 The Legal Services Provider must ensure that its Nominated Personnel:
  - (a) are admitted and authorised to practice as required by the rules of the relevant State or Territory professional society where the work is being conducted;
  - (b) undertake the work as described in an Order; and
  - (c) have the requisite skills, qualifications and experience for the tasks they are given.
- 6.3.2 If Nominated Personnel become unavailable to perform the work as required under an Order, the Legal Services Provider must notify the Agency immediately.
- 6.3.3 The Legal Services Provider must provide suitable replacement Nominated Personnel should an Agency, for security reasons, deny access to or request removal of any Nominated Personnel who will have access to an Agency's premises or Agency Material. If the Agency requests the removal of any Nominated Personnel for reasons not related to security, the Legal Services Provider shall nominate replacement Personnel for approval by the Agency (which will not be unreasonably withheld);

- 6.3.4 The Legal Services Provider must, at the request of the Agency acting in its absolute discretion, remove Nominated Personnel from work in relation to the Ordered Services.
- 6.3.5 If clause 6.3.2, clause 6.3.3 or clause 6.3.4 applies, the Legal Services Provider will provide replacement Nominated Personnel acceptable to the Agency at no additional cost and at the earliest opportunity.

#### **6.4 Legal Services Provider's Responsibilities**

- 6.4.1 The Legal Services Provider is responsible for all wages, salaries and other payments to its Personnel and must fully comply with all relevant Laws and other Commonwealth requirements in relation to Personnel including labour and industrial relations Laws and those relating to working conditions, salary, wages, the payment of any relevant tax, superannuation, 'pay as you go' or other income tax remissions and any other amounts, remissions and allowances including those under any industrial awards or agreements relevant to a Contract. Upon request, the Legal Services Provider must demonstrate that it has complied with these obligations.
- 6.4.2 Without limiting clause 6.4.1, the Legal Services Provider must:
- (a) comply with all applicable Laws and other requirements relating to the security of payments that are due to persons;
  - (b) ensure that payments made by the Legal Services Provider, including to Subcontractors, are made in a timely manner; and
  - (c) as far as practicable, ensure that disputes about any payments to its Personnel, are resolved in a reasonable, timely and cooperative way.

#### **6.5 Subcontracting**

- 6.5.1 Unless expressed otherwise in an Order, the Legal Services Provider must:
- (a) not subcontract any aspect of the Ordered Services without the prior written approval of the relevant Agency (such approval may be subject to conditions);
  - (b) not subcontract on terms that would permit the Subcontractor to do or omit to do something that would, if done or omitted to be done by the Legal Services Provider, constitute a breach of this Head Agreement or a Contract;
  - (c) not subcontract with an entity that:
    - i. has had a judicial decision against it (not including decisions under appeal) relating to employee entitlements in respect of which it has not paid any judgment amount; or
    - ii. is on, or which has one or more employees that are on, or which is a member of an entity that is on, the Commonwealth's consolidated list of individuals and entities to which terrorist asset freezing applies; or
    - iii. is named in a report tabled in the Australian Parliament by the Workplace Gender Equality Agency as a supplier that has not complied with the *Workplace Gender Equality Act 2012* (Cth);
  - (d) ensure that any Subcontractor is bound by, and complies with, provisions to the effect of the following clauses of this Head Agreement, to the extent relevant to the services provided by the Subcontractor:
    - i. clause 13.1.1(a) (Due Skill and Care);
    - ii. clause 16 (Commonwealth Laws and Policy Requirements);



- iii. clause 18 (Insurance);
  - iv. clause 22 (Confidentiality);
  - v. clause 23 (Security);
  - vi. clause 24 (Privacy);
  - vii. clause 25 (Termination);
  - viii. clause 28 (Audit and Access);
- (e) ensure that all subcontracts contain payment terms of 30 days or less; and
- (f) inform its Subcontractors that the Subcontractor's provision of any Services under the Head Agreement or a Contract may be disclosed publicly.
- 6.5.2 The Legal Services Provider is fully responsible for the performance of the Services even if the Legal Services Provider subcontracts any aspect of the provision of the Services.
- 6.5.3 Any Subcontractors identified in an Order are deemed to have been approved by an Agency in relation to the Ordered Services.

## 7 Performance Management Framework and Service Levels

### 7.1 Performance Management Framework

- 7.1.1 The Performance Management Framework and Service Levels are contained in **Schedule 7 (Performance Management Framework and Service Levels)**.
- 7.1.2 The Legal Services Provider acknowledges and agrees that its performance in providing Services to Agencies will be:
- (a) assessed and reported on by Agencies in accordance with the Performance Management Framework in **Schedule 7 (Performance Management Framework and Service Levels)**; and
  - (b) collected and used by AGD and shared with Agencies on a confidential basis for the purpose of achieving the objectives of the Panel.
- 7.1.3 The Legal Services Provider acknowledges and agrees that:
- (a) an Agency may specify additional performance management requirements, including reporting requirements in an Order; and
  - (b) that information collected in relation to these additional performance requirements is Confidential Information of the Commonwealth and may be shared between Agencies on a confidential basis.

### 7.2 Service Levels

- 7.2.1 The Legal Services Provider must provide the Services so as to meet or exceed the Service Levels described in **Schedule 7 (Performance Management Framework and Service Levels)**.
- 7.2.2 The Legal Services Provider must provide all necessary information and assistance to enable AGD to verify the Legal Services Provider's performance of the Services against the Service Levels.
- 7.2.3 The Legal Services Provider must comply with all other obligations imposed on it under **Schedule 7 (Performance Management Framework and Service Levels)**.

## 8 Reporting

### 8.1 Reporting to AGD

- 8.1.1 The Legal Services Provider must provide AGD with reports in accordance with **Schedule 8 (Reporting)**.
- 8.1.2 The Legal Services Provider must, if requested by AGD, provide written certification of the accuracy of any reports delivered. The certification of accuracy must be made by the Legal Services Provider's chief operating officer, or other appropriate senior person as agreed by AGD.
- 8.1.3 On expiry of this Head Agreement, the Legal Services Provider must continue to provide reports in accordance with **Schedule 8 (Reporting)** in relation to any existing Order at no cost.

### 8.2 Reporting to Agencies

- 8.2.1 The Legal Services Provider agrees to provide an Agency with any other reporting specified in an Order and any other reporting reasonably required by the Agency.

## 9 Relationships

### 9.1 General Obligations of the Parties

- 9.1.1 Each party must:
  - (a) diligently perform its obligations under this Head Agreement and any Contract; and
  - (b) work together in a collaborative manner in good faith.

### 9.2 Legal Services Provider Obligations

- 9.2.1 The Legal Services Provider must:
  - (a) comply with any reasonable directions given by AGD in respect of this Head Agreement;
  - (b) provide all reasonable assistance required by AGD provided that the assistance requested is consistent with the Legal Services Provider's obligations under this Head Agreement; and
  - (c) notify AGD immediately on becoming aware of:
    - i. any disciplinary proceedings or orders made by a law society or other professional body against the Legal Services Provider or its Personnel engaging in legal practice in Australia;
    - ii. any non-compliance by the Legal Services Provider or its Personnel with the *Workplace Gender Equality Act 2012 (Cth)*;
    - iii. any adverse comments or findings made by a court, commission, tribunal, law society or other statutory or professional body regarding the conduct or performance of the Legal Services Provider or impacting on the professional capacity or capability of its Personnel to deliver the Services;
    - iv. any unsettled judicial decisions against it relating to unpaid employee entitlements;

- v. any other significant matters involving the Legal Services Provider or its Personnel that may adversely impact on an Agency's compliance with Australian Government policy and legislation or the Commonwealth's reputation; and
  - vi. any non-compliance by the Legal Services Provider or its Personnel with any judgment against it from any court or tribunal (including overseas jurisdictions but excluding judgments under appeal or instances where the period for appeal or payment/settlement has not expired) relating to a breach of workplace relations law, work health and safety law or workers' compensation law.
- 9.2.2 In relation to any Ordered Services, the Legal Services Provider must notify the relevant Agency immediately on becoming aware of:
- (a) the existence of a Conflict of Interest; and
  - (b) any instances or allegations of non-compliance with the Legal Services Directions.
- 9.2.3 If requested by AGD, the Legal Services Provider must participate in any meetings at the Legal Services Provider's own expense, in relation to the operation of this Head Agreement.
- 9.2.4 The Legal Services Provider must comply with any reporting and invoicing requirements at the Legal Services Provider's own expense.

## 10 Additional Requirements

### 10.1 Pro Bono Work

- 10.1.1 The Legal Services Provider must:
- (a) sign up to the National Pro Bono Target; and
  - (b) use its best endeavours to meet or exceed the National Target for Pro Bono Work per lawyer per year.
- 10.1.2 The Legal Services Provider must maintain records in relation to Pro Bono Work to report on this performance in accordance with **Schedule 7 (Performance Management Framework and Service Levels)** and **Schedule 8 (Reporting)**.
- 10.1.3 AGD agrees that the Legal Services Provider may act against the Commonwealth in Pro Bono Work where:
- (a) there is no Conflict of Interest;
  - (b) to do so would not raise a Conflict of Interest; and
  - (c) there is or will be no breach of any other requirements of this Head Agreement or a Contract relating to a Conflict of Interest.

## 10.2 Value Add Services

10.2.1 For the purposes of this clause 10.2:

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<b>Government Law Foundational Training</b>	includes training to provide instruction to in-house lawyers, particularly new lawyers or lawyers new to government, including on legal issues particular to government practice. This includes matters such as professional duties, administrative law and decision making, developing and working with legislation, advice writing, information and disclosure law, Commonwealth financial frameworks, governance and risk management, grants, procurement and government contracts, as well as practical legal skills, such as professional communication and the like.
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10.2.2 The Legal Services Provider must provide AGD, when requested to do so:

- (a) the Value Add Services listed in **Schedule 4 (Fees and Disbursements)**; and
- (b) up to 4 hours of training services each year in relation to Government Law Foundational Training.

10.2.3 Delivery methods for Government Law Foundational Training may include face-to-face delivery, online training, production of papers or a combination of these.

10.2.4 The Legal Services Provider must maintain records in relation to Value Add Services to demonstrate and report on delivery in accordance with the requirements of **Schedule 7 (Performance Management Framework and Service Levels)** and **Schedule 8 (Reporting)**.

10.2.5 The Legal Services Provider may agree to provide additional Value Add Services to AGD or an Agency.

## Part B – Ordered Services

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### 11 Ordering Services

#### 11.1 Overview

11.1.1 An Agency may at any time during the Head Agreement Period, issue the Legal Services Provider and/or any other Panellists appointed to the Panel with:

- (a) a Request for Quote (RFQ) for the provision of Services; and/ or
- (b) an Order.

#### 11.2 Quotations

11.2.1 The RFQ will include the scope of the Agency's requirements in accordance with **Schedule 5 (Request for Quote Template)** or similar format provided by an Agency.

11.2.2 In seeking quotations, an Agency may negotiate Fees different to those set out in **Schedule 4 (Fees and Disbursements)** for Services by:

- (a) seeking quotations on a fixed price or other basis;
- (b) requesting innovative pricing, such as blended Fees; or
- (c) bundling a number of requirements for Services in one Order;

- 11.2.3 In an RFQ, an Agency may also:
- (a) require additional requirements, such as reporting, security or insurance; and
  - (b) impose Additional Terms.
- 11.2.4 The total amount of a quotation must not be higher than the amount that would be produced had the quotation been calculated in accordance with **Schedule 4 (Fees and Disbursements)**:
- (a) unless an Agency has specified in an RFQ that it will consider higher Fees, where the Legal Services Provider Services solution provides better value for money; or
  - (b) the Legal Services Provider has an innovative solution to the Services specified in an RFQ, that provides better value for money.
- 11.2.5 Quotations must remain open for acceptance by the Agency for a minimum of 30 days, or for such time as specified by the Agency in an RFQ.
- 11.2.6 Upon receipt of an RFQ, if the Legal Services Provider intends to submit a quotation for the provision of the Services described in the RFQ, the Legal Services Provider may submit a quotation in writing to the Agency in accordance with the timeframe and instructions in the RFQ, or must promptly notify the Agency that it will not be responding to the RFQ.

### **11.3 Forming a Contract**

- 11.3.1 A separate Contract will be formed between the Legal Services Provider and an Agency when an Agency issues an Order to the Legal Services Provider (**Ordered Services**) unless the Order is rejected in accordance with clause 11.3.4.
- 11.3.2 An Agency may issue an Order to the Legal Services Provider in the format provided in **Schedule 6 (Order Template)**, or similar format provided by the Agency, at any time during the Head Agreement Period.
- 11.3.3 An Agency's Order may include a Bundling Arrangement.
- 11.3.4 The Legal Services Provider may promptly reject an Order for the following reasons:
- (a) where the Legal Services Provider would have a Conflict of Interest; or
  - (b) where the Legal Services Provider would have insufficiently skilled Personnel to perform the Legal Services required by the Agency; or
  - (c) where the Legal Services Provider is unable to perform the Legal Services within the timeframes required by the Agency; or
  - (d) subject to clause 11.4, where the Order is not substantially in accordance with the RFQ or the terms of the Head Agreement.

### **11.4 Modifications to Head Agreement**

- 11.4.1 Where an Order seeks to modify the terms of the Head Agreement to reduce the obligations on a Legal Services Provider that would apply to a Contract through Additional Terms, the terms that seek to modify the Head Agreement have no legal effect, unless the relevant terms:
- (a) are specified in the applicable Order; and
  - (b) have been approved in writing by AGD prior to the issue of the Order.
- 11.4.2 If AGD has approved the Additional Terms, the Head Agreement is deemed to be amended for that Contract without the need to separately amend the Head Agreement.

- 11.4.3 Any deemed amendment to the Head Agreement under clause 11.4.2 will only apply to that particular Contract, and will not amend any other Contract or the Head Agreement generally.

## **12 Terms of a Contract**

### **12.1 Terms and Conditions**

- 12.1.1 The terms and conditions of each Contract will be:
- (a) the terms and conditions of this Head Agreement, including any Additional Terms approved by AGD under clause 11.4;
  - (b) the Order; and
  - (c) any other documents specified as being part of, incorporated into, or otherwise applicable to, the Contract (including relevant attachments and attached documents).
- 12.1.2 For a Contract, to the extent of any conflict between any of the provisions referred to in clause 12.1.1, the order of precedence set out in that clause will apply.

### **12.2 Contract Period**

- 12.2.1 A Contract begins on the Order Commencement Date and continues for the Order Term, as specified in the Order, unless the Contract is terminated in accordance with clause 25.
- 12.2.2 Where an Order Term extends beyond the Head Agreement Period or termination of the Head Agreement, the Order Term cannot be extended, unless otherwise agreed by AGD.
- 12.2.3 Where a Contract formed under clause 11.3 before the expiration or termination of the Head Agreement continues for the Order Term, notwithstanding the expiration or termination of this Head Agreement, the terms of this Head Agreement continue to apply to the Contract for the entire Order Term.

## **13 Provision of Services under a Contract**

### **13.1 Legal Services Provider Obligations**

- 13.1.1 Upon entering into a Contract, the Legal Services Provider must provide the Ordered Services as detailed in the Order:
- (a) with due skill and care and to the best of the Legal Services Provider's knowledge, expertise and ability;
  - (b) by Nominated Personnel who have the qualifications, expertise, capacity and capability to provide the Ordered Services to a high standard;
  - (c) in accordance with the Legal Services Directions; and
  - (d) in accordance with the requirements of this Head Agreement and the Order.

### **13.2 Liaison with Agency's Personnel**

- 13.2.1 In providing the Ordered Services, the Legal Services Provider must, at no additional cost to the Agency:
- (a) liaise with the Agency Representative, or other person nominated by the Agency, as reasonably required;

- (b) comply with all reasonable directions of the Agency Representative where these are not inconsistent with the terms of this Head Agreement or an Order; and
- (c) undertake any necessary Services to correct any errors identified in the Legal Services Provider's work.

### **13.3 Inquiries**

- 13.3.1 The Legal Services Provider agrees to provide, at no additional cost, all reasonable assistance requested by an Agency in respect of any inquiry concerning the Legal Services Provider's performance of Ordered Services.
- 13.3.2 Without limitation to the generality of clause 13.3.1:
  - (a) the assistance to be provided by the Legal Services Provider under clause 13.3.1 will include, as appropriate, the preparation of reports, the provision of documents or other Material, and making available relevant Legal Services Provider Personnel to provide information or answer questions on any matters relevant to or arising from an Order which might reasonably be expected to be within the knowledge of the Legal Services Provider; and
  - (b) an inquiry referred to in clause 13.3.1 will include any administrative or statutory review, audit or inquiry (whether within or external to the Agency), any requests for information or documents directed to the Agency and any inquiry conducted by Parliament or any Parliamentary committee.
- 13.3.3 The Agency Representative will endeavour to notify the Legal Services Provider as early as possible of any assistance required under clause 13.3.1, and the Legal Services Provider acknowledges that such notice may be oral and is not subject to any minimum notice period requirement.
- 13.3.4 This clause 13.3 survives expiration or termination of this Head Agreement.

### **13.4 Co-operation**

- 13.4.1 The parties intend to conduct themselves for the purposes of the provision of the Ordered Services in the spirit of co-operation and good faith, however this does not override or limit the provisions of this Head Agreement or an Order.
- 13.4.2 An Agency will co-operate with the Legal Services Provider by:
  - (a) making available, as reasonably requested by the Legal Services Provider, management decisions and information that is necessary for the Legal Services Provider to provide the Ordered Services, and
  - (b) setting priorities for the Ordered Services.
- 13.4.3 The Legal Services Provider must co-operate with any other service provider appointed by an Agency (including the Agency when it is providing services similar to or related to the Services in-house), to ensure the integrated and efficient conduct of the Agency's operations and must provide such reasonable assistance to other service providers as the Agency may reasonably request, and at no additional cost to the Agency.
- 13.4.4 To ensure maximum efficiency in the delivery of Ordered Services, where an Agency provides services in-house, the Agency will co-operate with the Legal Services Provider and where the Agency uses another service provider, the Agency will use its reasonable endeavours to ensure that other service providers co-operate with the Legal Services Provider.

## 13.5 Relationship of Parties

- 13.5.1 The Legal Services Provider is not by virtue of this Head Agreement or a Contract an officer, employee, partner or agent of the Commonwealth, AGD or an Agency, nor does the Legal Services Provider have any power or authority to bind or represent the Commonwealth, AGD or an Agency, unless specifically authorised in writing by an Agency.
- 13.5.2 The Legal Services Provider or any officer, employee, partner or agent must not:
- (a) misrepresent its relationship with the Commonwealth, AGD or an Agency; or
  - (b) engage in any misleading or deceptive conduct in relation to the Services.

## 14 Fees and Payment

### 14.1 Fees

- 14.1.1 Fees for the Services and any Disbursements will be specified in an Order, and the amount in the Order will be inclusive of GST.
- 14.1.2 The total invoiced amount for an Order must not exceed the amount specified in an Order, if any, unless the parties vary, in advance and in writing, the total Fees payable under the Order.

### 14.2 Invoicing and Payment

- 14.2.1 The Legal Services Provider must submit a correctly rendered Tax Invoice to the Agency in accordance with invoicing timeframes stipulated in an Order. If a Tax Invoice is not correctly rendered, the Agency will return it to the Legal Services Provider for correction and resubmission.
- 14.2.2 Tax Invoices must include:
- (a) information required by Law;
  - (b) payment terms and payment details;
  - (c) a description of the Services to which the invoice relates;
  - (d) itemised amounts payable (broken down by type); and
  - (e) any other information as reasonably requested by the Agency.
- 14.2.3 Subject to clauses 14.2.1 and 14.2.2, the Agency will pay the invoiced amount to the Legal Services Provider within 30 days, or other timeframe where policy requires, after receiving a Tax Invoice.

### 14.3 Interest

- 14.3.1 For the purposes of this clause 14.3:

**General Interest Charge Fee** means the interest charge determined under section 8AAD of the *Taxation Administration Act 1953* (Cth) on the day that payment is due. Details of the General Interest Charge Fee are available from the Australian Taxation Office website; and

**the day that payment is made** is the day that the Agency's system generates a payment request into the banking system for payment to the Legal Services Provider.



- 14.3.2 Subject to clause 14.3.5, if the Agency fails to pay a correctly rendered Tax Invoice within 30 days of receipt from the Legal Services Provider, the Agency will pay interest on any amounts which are overdue for payment in accordance with clause 14.3.4.
- 14.3.3 Amounts in dispute are not considered to be overdue.
- 14.3.4 Interest payable under this clause 14.3 will be simple interest on the unpaid amount at the General Interest Charge Fee, calculated in respect of each day from the day after the amount was due and payable, up to and including the day that payment is made as represented by the following formula:
- $SI = UA \times GIC \times D$
- Where:
- SI = simple interest amount;
- UA = the unpaid amount;
- GIC = General Interest Charge Fee (daily Fee); and
- D = the number of days from the day after payment was due up to and including the day that payment is made.
- 14.3.5 The Agency will only be required to pay interest under clause 14.3.2 where the amount of interest exceeds \$100.

## **15 GST and Taxes**

### **15.1 GST**

- 15.1.1 Words or expressions used in this clause 15 which are defined in the GST Act have the same meaning in this clause 15.
- 15.1.2 Unless specifically described in this Head Agreement or an Order as 'GST inclusive', any consideration to be paid for a supply made under or in connection with the Head Agreement or an Order does not include an amount on account of GST.
- 15.1.3 Despite any other provision in this Head Agreement or an Order, if a party (Supplier) makes a supply under or in connection with this Head Agreement on which GST is imposed (not being a supply described in this Head Agreement as 'GST inclusive'):
- (a) the consideration payable or to be provided for that supply under this Head Agreement but for the application of this clause 15.1.3 (GST exclusive consideration) is increased by, and the recipient of the supply (Recipient) must also pay to the Supplier, an amount equal to the GST payable on the supply (GST Amount); and
  - (b) the GST Amount must be paid to the Supplier by the Recipient without set off, deduction or requirement for demand, at the same time as the GST exclusive consideration is payable or to be provided.
- 15.1.4 The Recipient need not make a payment for a taxable supply made under or in connection with this Head Agreement until the Supplier has given the Recipient a Tax Invoice for the supply to which the payment relates.

### **15.2 Other Taxes**

- 15.2.1 Except as provided by this clause 15, the Legal Services Provider agrees to pay all taxes, duties and government charges imposed or levied in Australia or overseas in connection with the performance of this Head Agreement or an Order.

# Part C – General Terms and Conditions

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## 16 Commonwealth Laws and Policy Requirements

### 16.1 Compliance with Laws

16.1.1 The Legal Services Provider must comply with, and ensure its Personnel comply with, all Laws applicable to the provision of Services under this Head Agreement and any Contract, in particular:

- (a) the *Crimes Act 1914* (Cth);
- (b) the *Criminal Code Act 1995* (Cth);
- (c) the *Privacy Act*;
- (d) the *Workplace Gender Equality Act 2012* (Cth);
- (e) the *Work Health and Safety Act 2011* (Cth);
- (f) the *Auditor-General Act 1997* (Cth);
- (g) the *Judiciary Act 1903* (Cth); and
- (h) all applicable Laws relating to taxation.

### 16.2 Indigenous Procurement Policy

16.2.1 The Legal Services Provider must use its reasonable endeavours to increase its:

- (a) purchasing from Indigenous Enterprises; and
- (b) employment of Indigenous Australians,

in the delivery of the Services.

16.2.2 Purchases from Indigenous Enterprises may be in the form of engagement of an Indigenous Enterprise as a Subcontractor, and use of Indigenous suppliers in the Legal Services Provider's supply chain.

### 16.3 Fraud

16.3.1 For the purposes of this clause, 'Fraud' means dishonestly obtaining a benefit from the Commonwealth or causing a loss to the Commonwealth by deception or other means.

16.3.2 The Legal Services Provider must take all reasonable steps to prevent and detect Fraud in relation to its performance of this Head Agreement or a Contract. The Legal Services Provider acknowledges the occurrence of Fraud by the Legal Services Provider or its Personnel will constitute a breach of this Head Agreement and any relevant Contract.

16.3.3 If the Legal Services Provider or its Personnel have committed Fraud, or the Legal Services Provider has failed to take reasonable steps to prevent Fraud by its Personnel, the Legal Services Provider must reimburse or compensate AGD or the relevant Agency in full.

## 17 Legal Services Provider's Warranties

- 17.1.1 The Legal Services Provider warrants on the Head Agreement Commencement Date and each Order Commencement Date that:
- (a) it is not named by the Workplace Gender Equality Agency as an employer that is currently not complying with the *Workplace Gender Equality Act 2012* (Cth);
  - (b) it has not had a judicial decision against it (not including decisions under appeal) relating to employee entitlements in respect of which it has not paid the judgment amount;
  - (c) it is not on the Commonwealth's consolidated list of individuals and entities to which terrorist asset freezing applies and none of its Personnel or Subcontractors are on, or are a member of an entity on, that list; and
  - (d) it is financially viable.
- 17.1.2 The Legal Services Provider warrants that it will promptly notify and fully disclose to AGD any event or occurrence actual or threatened during the Head Agreement Period or any Order Term that would materially affect the Legal Services Provider's ability to perform any of its obligations under this Head Agreement or any Contract.

## 18 Insurance

### 18.1 Obligations to Hold Insurance

- 18.1.1 The Legal Services Provider must for the duration of this Head Agreement and any resulting Contract hold:
- (a) professional indemnity insurance which:
    - i. meets the requirements of the relevant State or Territory law society; and
    - ii. is for an amount not less than \$5 million per occurrence and \$10 million in the aggregate, unless specified otherwise in an Order;
  - (b) public liability insurance for an amount of not less than \$10 million per occurrence, unless specified otherwise in an Order; and
  - (c) workers' compensation insurance as required by Law.
- 18.1.2 Further to clause 18.1.1(a), the Legal Services Provider warrants that where it is a member of a limitation of liability scheme through a State or Territory law society or similar, it has a liability cap for an amount not less than \$10 million.
- 18.1.3 On request from AGD or an Agency the Legal Services Provider must provide evidence of the insurance described in clause 18.1.1.

## 19 Liability

### 19.1 Indemnity

- 19.1.1 In providing any Ordered Services, subject to clause 19.1.2, the Legal Services Provider must indemnify an Agency from and against any:
- (a) cost or liability incurred by the Agency;
  - (b) loss of or damage to property of the Agency; or

- (c) loss or expense incurred by the Agency in dealing with any claim against it including legal costs and expenses on a solicitor/own client basis and the cost of time spent, resources used or disbursements paid by the Agency,  
arising from either:
  - (d) a breach by the Legal Services Provider of this Head Agreement or a relevant Contract; or
  - (e) an unlawful or negligent act or omission of the Legal Services Provider or its Personnel in connection with a Contract.
- 19.1.2 The Legal Services Provider's liability to indemnify an Agency under clause 19.1.1 will be reduced proportionately to the extent that any unlawful or negligent act or omission of the Agency or its Personnel contributed to the relevant cost, liability, loss, damage or expense.
- 19.1.3 The right of an Agency to be indemnified under this clause 19.1 is in addition to, and not exclusive of, any other right, power or remedy provided by Law, but the Agency is not entitled to be compensated in excess of the amount of the relevant cost, liability, loss, damage or expense.
- 19.1.4 This clause 19.1 survives the expiration or termination of this Head Agreement or a Contract.

## 20 Intellectual Property Rights

### 20.1 Use of Agency Material

- 20.1.1 The Agency agrees to provide Agency Material to the Legal Services Provider as specified in an Order or otherwise agreed by the Agency.
- 20.1.2 The Agency grants (or will procure) a royalty-free, non-exclusive licence for the Legal Services Provider to use, reproduce and adapt Agency Material for the purposes of a Contract.
- 20.1.3 The Legal Services Provider agrees to use Agency Material strictly in accordance with any conditions or restrictions specified in an Order and any direction from the Agency.

### 20.2 Rights in Contract Material

- 20.2.1 Subject to clause 20.2.2, Intellectual Property in all Contract Material vests or will vest in the Agency.
- 20.2.2 Clause 20.2.1 does not affect the ownership of Intellectual Property in:
  - (a) any Agency Material incorporated into Contract Material; or
  - (b) any Existing Material.
- 20.2.3 The Legal Services Provider grants to (or must procure for) the Commonwealth and the relevant Agency, a permanent, irrevocable, royalty-free, world-wide, non-exclusive licence (including a right of sublicense) to use, reproduce, adapt and exploit any Existing Material incorporated in the Contract Material, in conjunction with the Contract Material.
- 20.2.4 The Agency grants to the Legal Services Provider a permanent, irrevocable, world-wide, royalty-free, non-exclusive licence, subject to clause 22, to use, reproduce, adapt, sublicense and exploit the Contract Material for the purpose of providing Ordered Services to the Agency or another 'Agency or Agencies' as defined in this Head Agreement.

20.2.5 The Legal Services Provider warrants that:

- (a) it is entitled; or
- (b) it will be entitled at the relevant time,

to deal with the Intellectual Property in the Existing Material in the manner provided for in this clause 20.

## 21 Moral Rights

### 21.1 General

21.1.1 Where the Legal Services Provider is a natural person and the author of the Contract Material, he or she consents to the performance of the Permitted Acts by the Agency or any person claiming under or through the Agency.

21.1.2 If clause 21.1.1 does not apply, the Legal Services Provider must:

- (a) obtain from each author a written consent which extends directly or indirectly to the performance of the Permitted Acts by the Agency or any person claiming under or through the Agency (whether occurring before or after the consent is given); and
- (b) on request, provide the executed original of any such consent to the Agency.

21.1.3 This clause 21 does not apply to any Agency Material incorporated in the Contract Material.

### 21.2 Permitted Acts

21.2.1 In this clause 21, "Permitted Acts" means:

- (a) not attributing the authorship, or falsely attributing the authorship, of any Contract Material, or any content in the Contract Material (including without limitation literary, dramatic, artistic works and cinematograph films within the meaning of the *Copyright Act 1968* (Cth));
- (b) materially altering the style, format, colours, content or layout of the Contract Material and dealing in any way with the altered Contract Material;
- (c) reproducing, communicating, adapting, publishing or exhibiting any Contract Material; and
- (d) adding any additional content or information to the Contract Material.

## 22 Confidentiality

### 22.1 Disclosure of Confidential Information

22.1.1 Subject to clause 22.2, a party must not, without the prior written consent of the other party, disclose any Confidential Information of the other party to a third party.

22.1.2 In giving written consent to the disclosure of Confidential Information, a party may impose such conditions as it thinks fit, and the other party agrees to comply with these conditions.

### 22.2 Exceptions to Obligations

22.2.1 The obligations of each party under this clause 22.2 will not be taken to have been breached to the extent that Confidential Information:

- (a) is disclosed by a party to its Personnel solely in order to comply with obligations, or to exercise rights, under this Head Agreement or any Contract;

- (b) is disclosed to a party's internal management or internal business services Personnel, solely to enable effective management or auditing of Head Agreement-related or Contract-related activities or to advisers for advice in connection with this Head Agreement or a Contract, or to a party's insurers and their advisers in connection with any claim or apprehended claim against a party;
- (c) is shared by AGD or an Agency within AGD or that Agency, or with another Agency, if this serves the Commonwealth's or the Agency's legitimate interests;
- (d) is disclosed by AGD or an Agency to a Commonwealth Minister and his or her advisers;
- (e) is disclosed by AGD or an Agency in response to a request from a House or a Committee of the Parliament of the Commonwealth, or from a State or Territory Parliament or Assembly if the relevant Agency is a State or Territory Agency;
- (f) is disclosed in circumstances where disclosure is authorised or required by Law, including under this Head Agreement or any Contract, under a licence or otherwise, to be disclosed; or
- (g) is in the public domain otherwise than due to a breach of this clause 22.

### **22.3 Obligations on Disclosure**

- 22.3.1 Where a party discloses Confidential Information to another person pursuant to clauses 22.2.1(a) to 22.2.1(e), the party will notify the receiving person that the information is confidential.
- 22.3.2 To avoid doubt, clause 22.2.1(c) includes the sharing of performance information between Agencies as envisaged by clause 7 and disclosure of information in order to administer and meet the objectives of the Panel. Agencies will be informed that such information is Confidential Information. AGD will not be liable for any breach of confidentiality obligations by Agencies.

### **22.4 No Reduction in Privacy Obligations**

- 22.4.1 Nothing in this clause 22 limits any obligation which either party may have under Law including the Privacy Act, any applicable State or Territory privacy Law, or under a Contract, in relation to the protection of Personal Information.

### **22.5 Written Undertaking**

- 22.5.1 The Legal Services Provider agrees, on request by an Agency at any time, to arrange for its Personnel who will have access to Confidential Information, to give a written undertaking in a form acceptable to the Agency relating to the use and non-disclosure of Confidential Information.

### **22.6 Agency Confidential Information**

- 22.6.1 The Legal Services Provider agrees to secure all Agency Confidential Information in its possession or control against loss and unauthorised access, use, modification or disclosure.
- 22.6.2 At the expiry or early termination of a Contract, unless instructed otherwise by the Agency, the Legal Services Provider must immediately return all Agency Confidential Information in its possession or control to the Agency.

## **23 Security**

### **23.1 General**

- 23.1.1 The Legal Services Provider agrees to comply with any security requirements specified in the Protective Security Policy Framework, and by an Agency in an Order.
- 23.1.2 The Legal Services Provider agrees to implement security procedures to ensure that it meets its obligations under this clause 23 and will provide details of these procedures to an Agency on request.

### **23.2 Data Security**

- 23.2.1 The Legal Services Provider must ensure that any Agency Material, which is accessed, transmitted or stored using or on the Legal Services Provider's or a Subcontractor's information systems is:
- (a) not accessed from or stored outside Australia unless expressly permitted by the Agency in an Order or in a standing written approval;
  - (b) protected at all times from:
    - i. unauthorised access or use by a third party;
    - ii. misuse, loss, damage or destruction by any person; and
  - (c) afforded protective measures (including but not limited to administrative, physical, and technical safeguards) that are no less rigorous than accepted industry standards for the Services provided.

## **24 Privacy**

### **24.1 Personal Information**

- 24.1.1 Clauses 24.1.1 to 24.1.7 apply:
- (a) where the Legal Services Provider deals with Personal Information for the purpose of providing the Services in accordance with this Head Agreement or any Contract; and
  - (b) subject to any modifications or exclusions set out in an Order.
- 24.1.2 The Legal Services Provider acknowledges that it is or may be considered to be a "contracted service provider" within the meaning of section 6 of the Privacy Act, and agrees in respect of any Personal Information obtained as a result of this Head Agreement or during the course of performing the Services under a Contract:
- (a) to use or disclose that Personal Information only for the purposes of this Head Agreement or that Contract;
  - (b) to comply with the obligations contained in the Australian Privacy Principles (APPs) as if it were an 'agency' under the Privacy Act;
  - (c) not to do any act, or engage in any practice, that would breach an APP, or which if done or engaged in by AGD or the relevant Agency, as the case may be, would be a breach of that APP by AGD or that Agency; and
  - (d) to ensure that any Legal Services Provider Personnel and Subcontractors who are required to deal with Personal Information for the purposes of this Head Agreement or a Contract, are made aware of the obligations of the Legal Services Provider as set out in this clause 24.

- 24.1.3 If the Legal Services Provider becomes aware that there are reasonable grounds to suspect that there may have been an Eligible Data Breach in relation to any Personal Information obtained by the Legal Services Provider as a result of this Head Agreement or during the course of performing the Services under a Contract, the Services Provider must:
- (a) notify AGD or the relevant Agency, as the case may be, in writing as soon as possible, which must be within 3 days of becoming aware; and
  - (b) unless otherwise directed by AGD or the Agency, carry out an assessment in accordance with the requirements of the Privacy Act.
- 24.1.4 Where the Legal Services Provider is aware that there are reasonable grounds to believe there has been, or where AGD or an Agency notifies the Legal Services Provider that there has been, an Eligible Data Breach in relation to any Personal Information obtained as a result of this Head Agreement or during the course of performing the Services under a Contract, the Legal Services Provider must:
- (a) take all reasonable action to mitigate the risk of the Eligible Data Breach causing serious harm to any of the individuals to whom it relates;
  - (b) unless otherwise directed by AGD or the relevant Agency, as the case may be, take all other action necessary to comply with the requirements of the Privacy Act; and
  - (c) take any other action as reasonably directed by AGD or the Agency.
- 24.1.5 The Legal Services Provider must promptly notify the Panel Manager in respect of this Head Agreement, and the Agency Representative in respect of a Contract, and the Information Commissioner where required, if the Legal Services Provider:
- (a) becomes aware of a breach or possible breach of any of the obligations contained in, or referred to in this clause 24, whether by the Legal Services Provider or a Subcontractor;
  - (b) becomes aware that a disclosure of Personal Information may be required by Law; or
  - (c) receives a request or an inquiry from the Information Commissioner, or from any individual to whom any Personal Information held by the Legal Services Provider or a Subcontractor relates, in respect of Personal Information.
- 24.1.6 The Legal Services Provider's obligations in this clause 24 are in addition to, and do not restrict, any obligations it may have under the Privacy Act or the APPs including any privacy codes or principles that would apply to the Legal Services Provider but for the application of the other provisions of this clause 24.
- 24.1.7 Nothing in this clause 24 derogates from clauses 22 or 23.

## 25 Termination

### 25.1 Termination of Head Agreement for Default

- 25.1.1 AGD may, with immediate effect, terminate this Head Agreement for default, by written notice to the Legal Services Provider, if the Legal Services Provider:
- (a) breaches a material provision of this Head Agreement or a warranty provided for in clause 17;



- (b) becomes aware that Personnel of the Legal Services Provider have committed a breach of national security or without written authorisation released Commonwealth Confidential Information to a third party;
- (c) is found to have provided false or misleading information to AGD or an Agency in respect of any aspect of their participation on the Panel;
- (d) fails to comply with any requirement relating to the Legal Services Directions;
- (e) being a corporation, subject to AGD complying with any requirements under the Corporations Act, comes under one of the forms of external administration referred to in chapter 5 of the Corporations Act, or has an order made against it for the purpose of placing it under external administration;
- (f) being an individual or partnership, becomes bankrupt or enters into a scheme of arrangement with creditors; or
- (g) in AGD's reasonable opinion, no longer has the capacity and capability to provide the Services in accordance with this Head Agreement.

25.1.2 AGD may terminate this Head Agreement for default, with immediate effect, if the Legal Services Provider fails, within 30 days of being provided with a notice of breach, to remedy a breach of this Head Agreement, other than a breach of a term the subject of clause 25.1.1.

25.1.3 If this Head Agreement is terminated for default:

- (a) the Legal Services Provider may no longer participate, from the date of the termination, in the Panel with respect to entering any new Contract to provide Services to Agencies; and
- (b) an Agency which is a party to an existing Contract with the Legal Services Provider under the Panel may, at its discretion, terminate that Contract for default.

## **25.2 Termination of Contract for Default**

25.2.1 If the Legal Services Provider fails to satisfy any of its obligations under a Contract, and the Agency considers that the failure is:

- (a) not capable of remedy, the Agency may by notice terminate the Contract immediately; or
- (b) capable of remedy, the Agency may by notice require that the failure be remedied within a reasonable time as specified in the notice and, if not remedied within that time, may terminate this Contract immediately by giving a second notice.

25.2.2 The Agency may also by notice terminate a Contract immediately (but without prejudice to any prior right of action or remedy which either party has or may have) if the Legal Services Provider:

- (a) fails to comply with any requirement relating to the Legal Services Directions;
- (b) being a corporation, subject to the Agency complying with any requirements under the Corporations Act, comes under one of the forms of external administration referred to in chapter 5 of the Corporations Act, or has an order made against it for the purpose of placing it under external administration;
- (c) being an individual or partnership, becomes bankrupt or enters into a scheme of arrangement with creditors; or
- (d) is terminated for default under clause 25.1.

**25.3 Termination or Reduction of Head Agreement for Convenience**

25.3.1 AGD may terminate this Head Agreement, or reduce the scope of Services, for any reason on 30 days prior written notice to the Legal Services Provider.

**25.4 Termination or Reduction of Contract for Convenience**

25.4.1 An Agency may by notice, at any time and in its absolute discretion terminate a Contract, or reduce the scope of any Ordered Services, immediately.

25.4.2 The Legal Services Provider agrees, on receipt of a notice of termination or reduction:

- (a) to stop or reduce work as specified in the notice;
- (b) to take all available steps to minimise loss resulting from that termination or reduction; and
- (c) to continue work on any part of any Ordered Services not affected by the notice.

25.4.3 In the event of termination under clause 25.4.1, the Agency will be liable only:

- (a) to pay any Fees due under a Contract relating to Ordered Services completed before the date of termination;
- (b) to reimburse any expenses the Legal Services Provider unavoidably incurs relating entirely to Ordered Services not covered under clause 25.4.3(a); and
- (c) to pay any allowance and meet any costs unavoidably incurred under a Contract before the effective date of termination.

25.4.4 The Agency will not be liable to pay amounts under clause 25.4.3(a) and 25.4.3(b) which would, added to any Fees already paid to the Legal Services Provider under a Contract, together exceed the Fees specified in an Order.

25.4.5 In the event of a reduction in the scope of any Ordered Services, the Agency's liability to pay Fees, allowances or costs under any relevant Contract will, unless there is agreement in writing to the contrary, reduce in accordance with the reduction in the Ordered Services.

25.4.6 The Legal Services Provider will not be entitled to compensation for loss of prospective profits.

**25.5 Effect of Expiration, Termination, or Reduction**

25.5.1 The expiration, termination, or reduction in scope of this Head Agreement does not automatically terminate or otherwise affect the operation of any Contract entered into with an Agency pursuant to this Head Agreement prior to the date of expiration, termination, or reduction.

25.5.2 Where this Head Agreement has been:

- (a) terminated or has expired in accordance with this clause 25, the Legal Services Provider must not accept a new Order or an extension of an existing Order entered into with an Agency prior to the date of termination or expiration; or
- (b) reduced in scope in accordance with clause 25.3, the Legal Services Provider must not accept a new Order or an extension of an existing Order entered into with an Agency prior to the date of reduction where such Order relates to Services under an Area of Law or Practice Area from which the Legal Services Provider has been removed.

25.5.3 Upon notice of:

- (a) termination, AGD will promptly remove the Legal Services Provider from the Panel;  
or
- (b) reduction in scope, AGD will promptly remove the Legal Services Provider from one or more Areas of Law or Practice Areas under which the Legal Services Provider has been appointed to provide Services under the Panel.

## 26 Dispute Resolution

### 26.1 Interpretation

26.1.1 In this clause 26, a reference to a 'party' is a reference to the Legal Services Provider, AGD or an Agency, as the case may be.

### 26.2 Procedure for Dispute Resolution

26.2.1 The parties agree that a dispute arising under this Head Agreement or a Contract will be dealt with as follows:

- (a) the party claiming that there is a dispute will give the other party a notice setting out the nature of the dispute;
- (b) each party will use genuine steps to resolve any dispute by direct negotiation in the first instance;
- (c) if the dispute cannot be resolved, each party will nominate a representative not having any prior involvement in the dispute;
- (d) the representatives will use genuine steps to try to settle the dispute by direct negotiation between them;
- (e) failing settlement within 10 Business Days after the nomination of a representative in accordance with clause 26.2.1(c), the parties may agree to refer the dispute to an independent third person with power:
  - i. to intervene and direct some form of resolution, in which case the parties will be bound by that resolution; or
  - ii. to mediate and recommend some form of non-binding resolution;
- (f) the parties will cooperate fully with any process instigated under clause 26.2.1(e) in order to achieve a speedy resolution; and
- (g) if:
  - i. a resolution is not reached within 20 Business Days after the dispute is referred to an independent third person in accordance with 26.2.1(e); or
  - ii. if no agreement as to an independent third person or resolution of dispute is reached following 30 Business Days commencing on the nomination of a representative in accordance with clause 26.2.1(c),either party may commence legal proceedings.

### 26.3 Costs

26.3.1 Each party will bear its own costs of complying with this clause 26 and the parties will bear equally the cost of any third person engaged under clause 26.2.1(e).

## **26.4 Continued Performance**

26.4.1 Despite the existence of a dispute, the Legal Services Provider will (unless requested in writing by an Agency not to do so) continue to perform any Ordered Services.

## **26.5 Exemption**

26.5.1 This clause 26 does not apply to:

- (a) action by an Agency under or purportedly under any clause relating to termination, whether for convenience or for default; or
- (b) legal proceedings by either party seeking urgent interlocutory relief.

## **27 Books and Records**

27.1.1 The Legal Services Provider must keep adequate books and records, in accordance with Accounting Standards, in sufficient detail to enable the amounts payable by an Agency under a Contract to be determined.

27.1.2 The Legal Services Provider must, in the performance of its obligations under this Head Agreement, and any Contract, at all times comply with any applicable requirements of the *Archives Act 1983* (Cth) and any Records Disposal Authority issued under that Act in respect of Commonwealth or Agency records which are under the custody or control of the Legal Services Provider.

## **28 Audit and Access**

### **28.1 Right to Conduct Audit**

28.1.1 The Legal Services Provider agrees to provide access to the Legal Services Provider's premises to conduct audits relevant to the performance of the Legal Services Provider for:

- (a) the Head Agreement, to AGD, or a person or organisation nominated by AGD; or
- (b) a Contract, to the Agency's Representative or a person or organisation nominated by the Agency.

28.1.2 Audits may be conducted of:

- (a) the Legal Services Provider's operational practices and procedures as they relate to this Head Agreement and any Contract (including security procedures);
- (b) the Fees and the accuracy of the Legal Services Provider's invoices and reports in relation to the provision of Services under this Head Agreement and any Contract;
- (c) the Legal Services Provider's compliance with its confidentiality, privacy, security and other obligations under this Head Agreement and any Contract; and
- (d) Material (including accounts and records) in the possession of the Legal Services Provider relevant to the Services or this Head Agreement or any Contract.

28.1.3 The rights referred to in clause 28.1.1 are subject to:

- (a) AGD or an Agency providing reasonable prior notice;
- (b) reasonable security procedures being in place at the premises; and
- (c) if appropriate, execution of a deed of confidentiality by the persons to whom access is given.

- 28.1.4 The Auditor-General, the Information Commissioner, and their delegates are persons authorised for the purposes of this clause 28.
- 28.1.5 This clause 28 does not detract from the statutory powers of the Auditor-General, the Information Commissioner and their delegates.

## 29 Conflict of Interest

- 29.1.1 The Legal Services Provider warrants that, to the best of its knowledge after making diligent inquiry at the Order Commencement Date, no Conflict of Interest except as disclosed in writing to the relevant Agency, exists or is likely to arise in the performance of the Ordered Services.
- 29.1.2 The Legal Services Provider must use its best endeavours (including making all appropriate enquiries) to ensure that:
- (a) a situation does not arise which may result in a Conflict of Interest; and
  - (b) any Personnel of the Legal Services Provider does not engage in any activity or obtain any interests likely to conflict with or restrict the Legal Services Provider in providing the Ordered Services to an Agency fairly and independently.
- 29.1.3 If a Conflict of Interest arises, or appears likely to arise, the Legal Services Provider agrees:
- (a) to notify the relevant Agency immediately;
  - (b) to the extent possible, noting legal professional obligations, make full disclosure of all relevant information relating to the Conflict of Interest; and
  - (c) to take any steps the relevant Agency reasonably requires to resolve or otherwise deal with the Conflict of Interest.
- 29.1.4 If the Legal Services Provider fails to notify an Agency in accordance with clause 29.1.3(a) or does not comply with the Agency's reasonable requirements to resolve or otherwise deal with the Conflict of Interest, the Agency may terminate the relevant Contract or Contracts in accordance with clause 25.2 (Termination of Contract for Default).

## 30 Notices and Other Communications

### 30.1 Service of Notices

- 30.1.1 Unless otherwise provided in this Head Agreement or a Contract, a notice must be in writing and is deemed to have been given if:
- (a) it is delivered by hand, on the date on which it is delivered;
  - (b) it is sent by post, on the day upon which it would be delivered in the normal course of post; or
  - (c) transmitted electronically, when the sender receives confirmation of a successful transmission (provided that the sender does not receive subsequent notification that that the notice failed to transmit).
- 30.1.2 The address for service of notice of each party of this Head Agreement is set out in Item 6 of **Schedule 1 (Head Agreement Details)**, or such other address as is notified by the party from time to time.

30.1.3 The address for notices for an Agency will be set out in an Order issued by the Agency to the Legal Services Provider.

## **30.2 Variations**

30.2.1 Either party can propose a variation to this Head Agreement by issuing a Deed of Variation in the format provided in **Schedule 10 (Deed of Variation)**.

30.2.2 No variation to this Head Agreement will be effective unless the Deed of Variation is signed by AGD Senior Executive and the Legal Services Provider's Senior Executive.

30.2.3 Variations to this Head Agreement will become effective on the date the last party signs the Deed of Variation.

30.2.4 A Contract may not be varied unless the Agency and the Legal Services Provider have agreed to that variation in writing.

## **31 Miscellaneous**

### **31.1 Entire Agreement**

31.1.1 This Head Agreement and each Contract constitutes the entire agreement between the parties in connection with its subject matter and supersedes all previous agreements or understandings between the parties in connection with its subject matter.

### **31.2 Survival**

31.2.1 The following clauses survive the expiry or termination of this Head Agreement or any Contract:

- (a) any clause expressly stated to survive, or which by its nature or operation survives, the expiry or termination of this Head Agreement or any Contract, in accordance with that clause;
- (b) any provision relating to liability or indemnity;
- (c) 13.3 (Inquiries);
- (d) 18 (Insurance);
- (e) 20 (Intellectual Property Rights);
- (f) 22 (Confidentiality);
- (g) 23 (Security);
- (h) 24 (Privacy);
- (i) 25 (Termination);
- (j) 26 (Dispute Resolution);
- (k) 27 (Books and Records);
- (l) 28 (Audit and Access);
- (m) 31 (Miscellaneous); and
- (n) any other provision which expressly or by implication from its nature is intended to continue.

### **31.3 Approvals and Consents**

31.3.1 Except where this Head Agreement expressly states otherwise, a party may, in its discretion, give conditionally or unconditionally, or withhold, any approval or consent under this Head Agreement.

### **31.4 Assignment and Novation**

31.4.1 The Legal Services Provider must not assign or novate its rights or obligations:

- (a) under this Head Agreement without the prior written consent of AGD; or
- (b) under a Contract without the prior written consent of the relevant Agency.

### **31.5 Waiver**

31.5.1 A failure or delay by a party to exercise any right or remedy it holds under this Head Agreement, or any Contract, or at law does not operate as a waiver of that right.

31.5.2 A single or partial exercise by a party of any right or remedy it holds under this Head Agreement, or any Contract, or at law does not prevent the party from exercising the right again or to the extent it has not fully exercised the right.

### **31.6 Announcements**

31.6.1 The Legal Services Provider must, before making a public announcement in connection with this Head Agreement or any Contract, or any transaction contemplated by this Head Agreement or any Contract, obtain AGD's, or in the case of a Contract the relevant Agency's, written agreement to the public announcement.

### **31.7 Governing Law and Jurisdiction**

31.7.1 This Head Agreement, and any Contract, is to be construed in accordance with, and any matter related to it is to be governed by, the law of the Australian Capital Territory, unless otherwise specified through the Order process.

### **31.8 Costs, Duties and Taxes**

31.8.1 Each party must pay its own costs of negotiating, preparing and executing this Head Agreement and any Order.

### **31.9 Counterparts**

31.9.1 This Head Agreement may be executed in counterparts. All executed counterparts constitute one document.

# Schedule 1 – Head Agreement Details

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<b>Item 1</b> (clause 1.1)	<b>Commencement Date</b> 15 August 2019
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<b>Item 2</b> (clause 1.1)	<b>Panel Manager</b> Director, Legal Services Panel Office of Legal Services Coordination (OLSC) Attorney-General's Department
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<b>Item 3</b> (clause 1.1)	<b>AGD Senior Executive</b> Assistant Secretary, OLSC Attorney-General's Department
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<b>Item 4</b> (clause 1.1)	<b>Legal Services Provider's Representative</b> Vanessa Smith Partner 0418 846 575 vanessa.smith@lawyerbank.com.au legalservices@lawyerbank.com.au
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<b>Item 5</b> (clause 1.1)	<b>Legal Services Provider's Senior Executive</b> Vanessa Smith Partner 0418 846 575 vanessa.smith@lawyerbank.com.au
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<b>Item 6</b> (clause 30)	<b>Address for notices</b> <b>(a) AGD</b> Director, Legal Services Panel Office of Legal Services (OLSC) Attorney-General's Department 3-5 National Circuit Barton ACT 2603 Email: lspanel@ag.gov.au  <b>(b) Legal Services Provider</b> Vanessa Smith Partner lawyerbank 96 Meehan Street, Yass NSW 2582 vanessa.smith@lawyerbank.com.au
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# Schedule 2 – Statement of Requirement

## 1. Introduction

- 1.1. The Legal Services Provider acknowledges that it may only provide Services related to the Services detailed in **Schedule 3 (Service Areas and Key Personnel)**.
- 1.2. The Legal Services Provider will provide the Services in accordance with the Head Agreement, including the Schedules, and any Contract.
- 1.3. The Services may include:
  - (a) providing legal advice;
  - (b) managing transactional work of a legal nature;
  - (c) advising on the operation of legislation, instruments, guidelines and policies;
  - (d) advising on drafting and assisting in preparation of legislative and other instruments;
  - (e) advising on and assisting in relation to the use of investigatory powers;
  - (f) advising on possible contraventions of relevant legislation;
  - (g) representing the Commonwealth or an Agency in litigation, arbitration, mediation, conciliation, expert determination or case management;
  - (h) providing or managing administrative processes incidental to the provision of associated legal services;
  - (i) identifying and advising on relevant legal and associated risks;
  - (j) advising on the planning and management of processes associated with programs or procurements administered by the Commonwealth or an Agency;
  - (k) advising on contracts and the management of contractual relationships, which may include drafting amendments or extensions of existing contracts;
  - (l) conducting independent audits of an Agency's processes which may include the administration of Commonwealth or Agency programs;
  - (m) investigating and reporting on complaints (or adverse allegations) made in connection with the administration of Commonwealth legislation, Agency functions or Commonwealth or Agency programs;
  - (n) assisting an Agency to respond to any complaint, Commonwealth Parliamentary committee or other inquiry concerning the Agency's processes or actions (including representing the Agency);
  - (o) reviewing documentation and providing probity advice and clearances;
  - (p) delivering capacity development and legal training on a particular Area of Law or specialisation;
  - (q) secondments of Legal Services Provider's personnel, to provide Services within a specific Area of Law; and
  - (r) Legal Support Services, being a short to medium term resource service to provide personnel to support an Agency's in-house legal area, distinct from Services within Areas of Law

## **2. Performance Management and Service Levels**

- 2.1. In supplying the Services, the Legal Services Provider acknowledges that it must:
- (a) comply with the Performance Management Framework in **Schedule 7 (Performance Management Framework and Service Levels)**;
  - (b) meet or exceed the Service Levels in **Schedule 7 (Performance Management Framework and Service Levels)** and
  - (c) meet or exceed any Agency defined Service Levels in an Order for Legal Services.

## **3. Areas of Law**

- 3.1. Subject to clause 1.1 of this Schedule, the Services cover the following general Areas of Law:
- (a) Workplace, Industrial Relations and Compensation;
  - (b) Public law;
  - (c) Corporate and commercial;
  - (d) Property and environment; and
  - (e) Litigation specialisation.
- 3.2. Each Area of Law consists of a number of related Practice Areas, which clarify the types of Legal Services that relate to an Area of Law, although these are not limiting. An Agency may specify, in an Order, other Legal Services that are reasonably related to an Area of Law.
- 3.3. Dispute resolution and litigation is listed under several Areas of Law, and relates to matters comprising disputes, regulatory proceedings or monetary claims relevant to that Area of Law.
- 3.4. Secondments of Legal Services Provider's personnel may be required under any Area of Law.
- 3.5. **Workplace, Industrial Relations and Compensation**
- 3.5.1 Services under the Workplace, Industrial Relations and Compensation Area of Law generally relate to employer obligations, entitlements and regulations, and general compensation and personal injury matters, particularly in the Commonwealth context, and include the following Practice Areas:
- (a) Employment and industrial relations;
  - (b) Commonwealth workers' compensation (including advice and representation under the *Safety, Rehabilitation and Compensation Act 1988*, as well as defence, military, veterans and seafarers legislation);
  - (c) Workplace health and safety;
  - (d) Compensation, damages and personal injury (including management of common law asbestos-related condition liabilities of the Australian Government and related entities); and
  - (e) Dispute resolution and litigation.

### 3.6. **Public Law**

3.6.1. Services under the Public Law Area of Law include the following Practice Areas:

- (a) Administrative law (including challenges to decision making, financial frameworks, and regulatory issues);
- (b) Freedom of information, privacy and public interest disclosure;
- (c) Human rights and discrimination;
- (d) Debt recovery; and
- (e) Dispute resolution and litigation.

### 3.7. **Corporate and Commercial**

3.7.1. Services under the Corporate and Commercial Area of Law covers Services across a broad range of Practice Areas, and include the following Practice Areas:

- (a) General contract law (including grants, funding agreements and Memoranda of Understanding);
- (b) Procurement and tendering;
- (c) Governance and Probity;
- (d) Corporations, markets, financial services and consumer credit law, including:
  - i Corporations, markets, financial services and consumer credit regulation,
  - ii Auditor, insolvency practitioner and external administration regulation, and
  - iii Transactional banking and finance matters, including project finance, restructures and taxation,
- (e) Insurance (other than workplace);
- (f) Intellectual property (including professional and administrative patent and trademark services);
- (g) Media (including the regulation of areas such as the telecommunications industry, broadcasting, advertising and censorship);
- (h) Information and communications technology;
- (i) Insolvency and bankruptcy; and
- (j) Dispute resolution and litigation.

### 3.8. **Property and Environment**

3.8.1. Services under the Property and Environment Area of Law relate to property law and include the following:

- (a) General property (including tenure and titles matters, property development, redevelopment and management and compulsory acquisitions);
- (b) Transactional property (including purchase, sale, leasing and dealings with estates and rights related to commercial, residential and agricultural land);
- (c) Construction and infrastructure (including specialist legal expertise in building and construction law, including building contracts and building regulation);

- (d) Environment (including areas of planning and environment law such as protection, conservation, environmental management, pollution, waste handling management, national parks and protected areas); and
- (e) Dispute resolution and litigation.

### **3.9. Litigation Specialisation**

- 3.9.1. Services under the Litigation Specialisation Area of Law generally relate to specific litigation, disputes and proceedings that require expertise in large scale, routine, and/or complex dispute resolution processes.
- 3.9.2. In determining the need to access this Area of Law, Agencies will consider factors such as:
  - (a) the need for expertise in litigation or dispute resolution processes;
  - (b) routine litigation in large scale or high volume matters;
  - (c) complex or unusual legal and/or factual issues, such as historical claims, international disputes, etc.;
  - (d) significant expenditure; and
  - (e) the need for a large, multidisciplinary and/or administratively efficient legal team because of multiple parties, volume of evidence, length of proceedings or numerous interlocutory stages. Such matters may include class actions, royal commissions, public inquiries, etc.

## **4. Legal Support Services**

- 4.1. Agencies may require short to medium term Legal Support Services:
  - (a) Services under the supervision of the Agency at its premises:
    - i the provision of one or more people with legal qualifications and/or a practising certificate to undertake legal work under the day to day management and direction of Agency Personnel. Suitably qualified Agency Personnel will supervise the legal work undertaken by the person/s.
    - ii the provision of legal support staff, including paralegals and administrative officers to work under the day to day management and supervision of Agency Personnel.
  - (b) Services under the supervision of a Legal Services Provider at its premises:
    - i the provision of one or more people with legal qualifications including a restricted or unrestricted practicing certificate to undertake legal work under the day to day management and direction of Agency Personnel, with the support and/or supervision of the Legal Services Provider.

# Schedule 3 – Service Areas and Key Personnel

## 1. Introduction

- 1.1. The purpose of this Schedule 3 is to specify:
- (a) the Legal Services the Legal Services Provider is approved to provide; and
  - (b) the Legal Services Provider's approved Key Personnel.

## 2. Service Areas

- 2.1. The Legal Services Provider is approved to provide Legal Services in the following Practice Areas:

Area of Law	Practice Area
Corporate and Commercial	Procurement and Tendering
	Governance and Probity
	Information and Communications Technology
Public Law	Administrative Law
	Freedom of Information, Privacy and Public Interest Disclosure
	Dispute Resolution and Litigation
Legal Support Services	Legal Support Services

## 3. Key Personnel

- 3.1. The following Legal Services Provider's Key Personnel are approved for the Corporate and Commercial Area of Law

Key Personnel – Corporate and Commercial	
Key Personnel	Practice Areas
Vanessa Smith Partner	Procurement and Tendering
	Governance and Probity
	Information and Communications Technology
Edward Evers Partner	Procurement and Tendering
	Governance and Probity
	Information and Communications Technology
Alex Nicholls Partner	Procurement and Tendering
	Governance and Probity
	Information and Communications Technology

- 3.2. The following Legal Services Provider's Key Personnel are approved for the Public Law Area of Law.

<b>Key Personnel – Public Law</b>	
<b>Key Personnel</b>	<b>Practice Areas</b>
s47F	Administrative Law
	Freedom of Information, Privacy and Public Interest Disclosure
	Dispute Resolution and Litigation
s47F	Administrative Law
	Freedom of Information, Privacy and Public Interest Disclosure
	Dispute Resolution and Litigation
s47F	Administrative Law
	Freedom of Information, Privacy and Public Interest Disclosure
	Dispute Resolution and Litigation

- 3.3. The Legal Services Provider acknowledges that Appendix 1 to this Schedule 3 provides the Key Personnel Request for Approval Form for the Legal Services Provider to propose new or replacement Key Personnel.

# Appendix 1 to Schedule 3 – Key Personnel Request for Approval Form

## 1. Introduction

- 1.1. In accordance with clause 6.2 of the Head Agreement, this Appendix 1 to Schedule 3 provides the *Key Personnel Request for Approval Form* for the Legal Services Provider to propose new or replacement Key Personnel to be specified in **Schedule 3 (Service Areas and Key Personnel)**.

<b><u>Key Personnel - Request for Approval</u></b>	
<b>Legal Services Provider Name</b>	<i>[Name of Legal Services Provider]</i>
<b>Name</b>	<i>[The full name of the proposed Key Personnel]</i>
<b>Position</b>	<i>[The proposed Key Personnel's substantive position, e.g. Partner, Special Counsel, etc.]</i>
<b>Contact Details</b>	<i>[Insert Key Personnel's contact number and email address]</i>
<b>Area of Law</b>	<i>[Specify the Area/s of Law in Schedule 3 of the Head Agreement for which the proposed Key Personnel is being nominated]</i>
<b>Formal Qualifications</b>	<i>[List formal qualification of the proposed Key Personnel]</i>
<b>Post Admission Experience (PAE)</b>	<i>[Key Personnel's years since admission or years of work not including any interruptions or periods of extended leave]</i>
<b>Skills and Expertise</b>	<i>[List up to five relevant skills or specialisations for the proposed Key Personnel as dot points – please consider the Practice Areas as a guide (max. 5 dot points)]</i>
<b>Experience</b>	<i>[Detail the proposed Key Personnel's Commonwealth Government and other relevant experience, including relevant highlights and achievements by role / client or organisation / length of time on project / outcomes (max. 500 words)]</i>
<b>Recognition, Memberships &amp; Affiliations</b>	<i>[List relevant recognition, memberships and affiliations to relevant industry groups (max. 150 words)]</i>
<b>Security clearance</b>	<i>[Detail security clearance and date of expiry]</i>
<b>Website</b>	<i>[External link to Key Personnel's profile page / LinkedIn]</i>

- 1.2. On receipt of a completed *Key Personnel Request for Approval Form*, the Panel Manager will consider the information provided to determine the approval or otherwise, of the Legal Services Provider's proposed new or replacement Key Personnel.
- 1.3. The Legal Services Provider acknowledges that the submission of a *Key Personnel Request for Approval Form* to the Panel Manager does not constitute acceptance of the Legal Services Provider's proposed new or replacement Key Personnel.
- 1.4. All the information requested in the *Key Personnel Request for Approval Form* must be provided, and a Curriculum Vitae in the Legal Services Provider's standard form, may be submitted in support of the *Key Personnel Request for Approval Form*.



# Schedule 4 – Fees and Disbursements

## 1. Fees

- 1.1. The Legal Services Provider's Fees in this Schedule 4 are capped, and are the maximum Fees that may be charged unless adjusted in accordance with:
  - (a) the Request for Quotation process provided for in clause 11.2.2 of the Head Agreement, and agreed in a Contract; and
  - (b) the annual review mechanism in clause 3 of this Schedule 4.
- 1.2. Subject to clause 11.2.4, the Fees will be not more than the Legal Services Provider's Fees for the relevant Practice Area.
- 1.3. The applicable Fee will correspond with the Legal Services Provider's Fee for the Practice Area specified in the Order.
- 1.4. The Legal Services Provider must not charge for any items listed in clause 7.2 or clause 8 of this Schedule 4.
- 1.5. Unless stated otherwise in an Order, the Daily Fees and Secondment Fees in this Schedule 4 apply to a 7.5 hour day.

## 2. GST

- 2.1. All Fees in this Schedule 4 are inclusive of GST, unless specified otherwise.

## 3. Annual Review of Charges

- 3.1. Prior to 31 May 2020 and for each subsequent year for the Head Agreement Period, the Legal Services Provider may apply for an increase of the Fees in this Schedule 4 of not more than the change in the Wage Price Index (the private sector seasonally adjusted index) for the preceding 12 months, as published by the Australian Bureau of Statistics, and the Fees will be adjusted from 1 July of that year.

## 4. Fees – Areas of Law

### 4.1. Public Law

- 4.1.1 The Fees for the Service Areas in Schedule 3 are:  
s45

**5. Order Value Discounts**

- 5.1 The Order Value Discounts in the table below only apply to that part of the Fees for a particular Order that are within the applicable Order Value Threshold.
- 5.2 Order Value Discounts apply to the Fees in a single Order, or the Fees in a single Order as varied over its term, and are not applied in aggregate to Fees across multiple Orders.
- 5.3 Subject to clause 5.1 and 5.2, Order Value Discounts will be applied to the Fees for each Classification in an Order, where:
  - (a) the value of the initial Order meets an Order Value Threshold, or
  - (b) the value of the Order is varied over the term of the Order, and the Order Fees, as varied, meet or exceed an Order Value Threshold.

Order Value Thresholds	Classifications						
	Partner	Special Counsel	Senior Associate	Lawyer (> 2 years)	Lawyer (< 2 years)	Graduate Lawyer	Paralegal
\$500,000 to \$1,000,000	s45						
\$1,000,001 to \$5,000,000							
\$5,000,001 to \$10,000,000							
\$10,000,001 +							

**6. Fees – Legal Support Services**  
s45

**7. Disbursements**

7.1 The Legal Services Provider may charge the following disbursements at cost only and only where the approval of the Agency Representative is obtained in writing prior to the cost being incurred:

- (a) counsel fees;
- (b) experts' fees;
- (c) airfares and accommodation in accordance with government policy at non-SES rates;

- (d) agents' fees and process servers;
- (e) bulk photocopying (with the first 1,000 pages of photocopying at no charge to the Agency);
- (f) electronic processing of documents;
- (g) costs associated with e-discovery; and
- (h) any other disbursements incurred with the prior approval of the Agency.

7.2 The Legal Services Provider must not charge for:

- (a) any telecommunication carriage fees, facsimiles and postage charges;
- (b) courier expenses within the ACT or the city or place where the Services are being provided;
- (c) ground transport in the place where the Services are being provided, including any taxi or hire car travel or other ride sharing charges; and
- (d) the provision of Value Add Services.

**8. Value Add Services**

8.1 In addition to the Value Add Services in clause 10.2, the Legal Services Provider agrees to provide the following additional Value Add Services.

Value Add Services			
Item	Service	Inclusions	Conditions

s45

# Schedule 5 – Request for Quote Template

## 1. Introduction

- 1.1. This Schedule 5 provides a Request for Quote (RFQ) template, for the provision of Legal Services to an Agency, as detailed in clause 11 of the Head Agreement.
- 1.2. The Legal Services Provider acknowledges that the use of this template by an Agency is not mandatory when requesting quotations for Services from the Panel.

<b><u>Request For Quote for Legal Services</u></b>	
<b>Agency Information</b>	
<b>Agency:</b>	<i>[Insert Agency name]</i>
<b>Agency File Reference:</b>	<i>[Insert Agency's File Reference]</i>
<b>RFQ Reference:</b>	<i>[Insert Agency's RFQ reference number]</i>
<b>Agency Representative:</b>	<i>Name: [Insert contact name]</i> <i>Position: [Insert title]</i> <i>Address: [Insert address, including postcode]</i> <i>Email: [Insert email address]</i> <i>Telephone: [Insert telephone number, including area code]</i> <i>Mobile: [Insert mobile number]</i>
<b>RFQ and Proposed Order Details</b>	
<b>RFQ Release Date:</b>	
<b>RFQ Closing Date:</b>	
<b>Proposed Order Commencement Date:</b>	
<b>Proposed Order Term and/or Completion Date:</b>	
<b>Statement of Work</b>	
<b>Area of Law:</b>	<i>[Insert the relevant Area of Law from the SOR]</i>
<b>Practice Area:</b>	<i>[Insert the Practice Area for the relevant Area of Law from the SOR]</i>
<b>Detailed Statement of Work:</b>	<i>[Insert a detailed description of Legal Services required, including relevant background material. A separate Statement of Work may be referenced and attached]</i>
<b>Timeframes and Milestones:</b>	<i>[Insert proposed timeframes and/or milestones for Legal Services]</i>
<b>Location:</b>	<i>[Insert the required work location/site, or insert 'Not Applicable']</i>
<b>Agency Material:</b>	<i>[List any documents attached to the RFQ.]</i>

**Request For Quote for Legal Services**

<b>Existing Material</b>	<i>[Insert details of any Existing Material or insert 'Not Applicable']</i>														
<b>Contract Material</b>	<i>[Unless specified in the Statement of Work, insert details of any Contract Material]</i>														
<b>Confidential Information</b>	<p><i>[Include details in table below or insert Not Applicable]</i></p> <table border="1"> <thead> <tr> <th><b>Agency Confidential information (for example)</b></th> <th><b>Period of Confidentiality</b></th> </tr> </thead> <tbody> <tr> <td>Agency data</td> <td>Indefinitely</td> </tr> <tr> <td>Any Personal Information held by the Agency</td> <td>Indefinitely</td> </tr> <tr> <td>Security Classified Information</td> <td>Indefinitely</td> </tr> </tbody> </table> <table border="1"> <thead> <tr> <th><b>Legal Services Provider Confidential information</b></th> <th><b>Period of Confidentiality</b></th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> </tr> </tbody> </table> <p><i>[Information on confidentiality provisions is available at:  <a href="https://www.finance.gov.au/procurement/procurement-policy-and-guidance/buying/contract-issues/confidentiality-procurement-cycle/principles.html">https://www.finance.gov.au/procurement/procurement-policy-and-guidance/buying/contract-issues/confidentiality-procurement-cycle/principles.html</a>]</i></p>	<b>Agency Confidential information (for example)</b>	<b>Period of Confidentiality</b>	Agency data	Indefinitely	Any Personal Information held by the Agency	Indefinitely	Security Classified Information	Indefinitely	<b>Legal Services Provider Confidential information</b>	<b>Period of Confidentiality</b>				
<b>Agency Confidential information (for example)</b>	<b>Period of Confidentiality</b>														
Agency data	Indefinitely														
Any Personal Information held by the Agency	Indefinitely														
Security Classified Information	Indefinitely														
<b>Legal Services Provider Confidential information</b>	<b>Period of Confidentiality</b>														
<b>Additional Terms</b>	<i>[Insert any terms and conditions required by the Agency in addition to the standard terms and conditions in the Head Agreement, or insert 'Not Applicable']</i>														
<b>Additional Security Requirements</b>	<i>[State any additional security requirements to the requirements contained in the Head Agreement, or that apply to particular aspects of work (e.g. Protected security clearance required) or insert 'Not Applicable']</i>														
<b>Additional Insurance Requirements</b>	<p><i>[Insert additional requirements (if any) for relevant insurance e.g.</i></p> <ul style="list-style-type: none"> <li><i>a) Professional indemnity insurance for an insured amount of [\\$ insert amount] per occurrence and not less than [\\$ insert amount] in the aggregate;</i></li> <li><i>b) Public liability insurance for an insured amount of [\\$ insert amount] per occurrence and not less than [\\$ insert amount] in aggregate; and</i></li> <li><i>c) Workers' compensation insurance as required by Law; or</i></li> </ul> <p><i>insert 'Not Applicable'. Where 'Not Applicable' is specified, the insurance requirements under the Head Agreement will apply.]</i></p>														

<b><u>Request For Quote for Legal Services</u></b>	
<b>Other Requirements</b>	<p><i>[For example, Nominated Personnel performing the Legal Services may be required to sign a deed and acknowledgements relating to confidentiality, security, moral rights, intellectual property and other relevant matters as required by the Agency. Any Contract will be conditional on this occurring]</i></p> <p><i>[Insert any other relevant requirements or Legal Services Provider's offering above those specified in the Head Agreement, including the Schedules, for example in relation to:</i></p> <ul style="list-style-type: none"> <li><i>a) Special conditions</i></li> <li><i>b) Reporting</i></li> <li><i>c) Value Add Services</i></li> <li><i>d) Performance and evaluation</i></li> <li><i>e) Particular requirements concerning activities that must be undertaken jointly with other existing Agency Legal Services Providers]</i></li> </ul>
<b>Fees and Disbursements</b>	<i>[Insert details of fee and disbursements e.g. rates, fixed fee, blended rates, whether the RFQ is for a Bundling Arrangement, and disbursements (if applicable)]</i>
<b><i>Nominated Person Details</i></b>	
<b>Required Qualifications and Experience</b>	<i>[Include details of mandatory/desired qualifications and experience or security clearance required]</i>
<b>Nominated Personnel</b>	<i>[Insert the required Nominated Personnel details, or insert 'Not Applicable']</i>
<b>Subcontractors</b>	<i>[Insert details of its proposed Subcontractors for preapproval, or insert 'Not Applicable']</i>

<b><u>Legal Services Provider Response to RFQ</u></b>	
<b>Quotation (GST incl.)</b>	<i>[Insert estimate of fees and disbursements, including rates, fixed fee, blended rates, Bundling Arrangements, and disbursements (as applicable)]</i>
<b>Nominated Personnel</b>	<i>[Insert details of the Nominated Personnel]</i>
<b>Conflict of Interest</b>	<i>[Include details of any Conflict of Interest and how the Legal Services Provider proposes to resolve or otherwise deal with the Conflict of Interest]</i>
<b>Other Comments</b>	<i>[Any other relevant comments, including with regard to timeframes, etc.]</i>

# Schedule 6 – Order Template

## 1. Introduction

- 1.1. This Schedule 6 provides an Order Template for the provision of Legal Services to an Agency, as detailed in clause 11.3 of the Head Agreement.
- 1.2. The Legal Services Provider acknowledges that the use of this template by an Agency is not mandatory when ordering for Services from the Panel.

<b><u>Order for Legal Services</u></b>	
<p><i>[Legal Services Provider's Representative]</i></p> <p><i>[Legal Services Provider's Name]</i></p> <p><i>[Legal Services Provider's Address]</i></p> <p><i>[Legal Services Provider's ABN or ACN]</i></p> <p><b>Sent via:</b> <i>[email]: [Legal Services Provider's email address]</i></p>	
<b>Agency Order Information</b>	
<b>Agency:</b>	<i>[Insert Agency name]</i>
<b>Agency File Reference:</b>	<i>[Insert Agency's File Reference]</i>
<b>Order Number:</b>	<i>[Insert Agency's reference number for this Order for Legal Services]</i>
<b>Order Commencement Date and Term</b>	
<b>Order Commencement Date:</b>	
<b>Order Term and Extensions:</b>	<p>a) <i>[xxxx] from the Order Commencement Date (Initial Term).</i></p> <p>b) <i>The Agency may in its sole discretion extend the Initial Term of this Order for a further period or periods, up to [XX months/years], on the same terms and conditions of this Order, by giving at least 1 month's prior written notice to the Legal Services Provider (or such shorter period of notice as is agreed with the Legal Services Provider), prior to end of the Initial Term of this Order (extension period/s).]</i></p>
<b>Statement of Work</b>	
<b>Area of Law:</b>	<i>[Insert the relevant Area of Law from the SOR]</i>
<b>Practice Area (if any):</b>	<i>[Insert the Practice Area (if any) for the relevant Area of Law from the SOR]</i>
<b>Detailed Statement of Work:</b>	<i>[Insert a detailed description of Legal Services required, including relevant background material. A separate Statement of Work may be referenced and attached]</i>
<b>Timeframes and Milestones:</b>	<i>[Insert proposed timeframes and/or milestones for Legal Services]</i>



<b><u>Order for Legal Services</u></b>															
<b>Nominated Personnel:</b>	<i>[Insert details of the Nominated Personnel accepted by the Agency for this Order for Legal Services]</i>														
<b>Subcontractors</b>	<i>[Insert details of approved subcontractors for this Order for Legal Services, or insert 'Not Applicable']</i>														
<b>Counsel</b>	<i>[Insert details of any Counsel for this Order for Legal Services, or insert 'Not Applicable']</i>														
<b>Location:</b>	<i>[Insert the required work location/site, or insert 'Not Applicable']</i>														
<b>Additional Terms:</b>	<i>[Insert any terms and conditions required by the Agency in addition to the standard terms and conditions in the Head Agreement, or insert 'Not Applicable']</i>														
<b>Fees and Disbursements</b>	<i>[Insert details of fees and disbursements e.g.:</i> a) <i>LSP quotation from RFQ (if applicable); or</i> b) <i>Head Agreement rates; or</i> c) <i>Rates under an existing Bundling Arrangement.</i> <i>Disbursements may be approved at a later stage]</i>														
<b>Agency Material:</b>	<i>[List any documents attached to the RFQ.]</i>														
<b>Existing Material</b>	<i>[Insert details of any Existing Material or insert 'Not Applicable']</i>														
<b>Contract Material</b>	<i>[Unless specified in the Statement of Work, insert details of any Contract Material]</i>														
<b>Confidential Information</b>	<i>[Include details in table below or insert Not Applicable]</i> <table border="1" style="margin: 10px auto;"> <thead> <tr> <th style="text-align: center;">Agency Confidential information <i>(for example)</i></th> <th style="text-align: center;">Period of Confidentiality</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">Agency data</td> <td style="text-align: center;">Indefinitely</td> </tr> <tr> <td style="text-align: center;">Any Personal Information held by the Agency</td> <td style="text-align: center;">Indefinitely</td> </tr> <tr> <td style="text-align: center;">Security Classified Information</td> <td style="text-align: center;">Indefinitely</td> </tr> </tbody> </table> <table border="1" style="margin: 10px auto;"> <thead> <tr> <th style="text-align: center;">The Legal Services Provider Confidential Information</th> <th style="text-align: center;">Period of Confidentiality</th> </tr> </thead> <tbody> <tr> <td style="height: 20px;"></td> <td></td> </tr> <tr> <td style="height: 20px;"></td> <td></td> </tr> </tbody> </table>	Agency Confidential information <i>(for example)</i>	Period of Confidentiality	Agency data	Indefinitely	Any Personal Information held by the Agency	Indefinitely	Security Classified Information	Indefinitely	The Legal Services Provider Confidential Information	Period of Confidentiality				
Agency Confidential information <i>(for example)</i>	Period of Confidentiality														
Agency data	Indefinitely														
Any Personal Information held by the Agency	Indefinitely														
Security Classified Information	Indefinitely														
The Legal Services Provider Confidential Information	Period of Confidentiality														
<b>Additional Security Requirements</b>	<i>[State any additional security requirements to the requirements contained in the Head Agreement, or that apply to particular aspects of work (e.g. Protected security clearance required) or insert 'Not Applicable']</i>														

## Order for Legal Services

<b>Additional Insurance Requirements</b>	<p><i>[Insert additional insurance requirements (if any) where they vary from the insurance amounts in clause 18 of the Head Agreement e.g.:</i></p> <ul style="list-style-type: none"> <li>a) <i>Professional indemnity insurance for an insured amount of [\$ insert amount] per occurrence and not less than [\$ insert amount] in the aggregate;</i></li> <li>b) <i>Public liability insurance for an insured amount of [\$ insert amount] per occurrence and not less than [\$ insert amount] in aggregate; and</i></li> <li>c) <i>Workers' compensation insurance as required by Law; or</i></li> <li>d) <i>insert 'Not Applicable'.</i></li> </ul> <p><i>Where 'Not Applicable' is specified, the insurance requirements under the Head Agreement will apply.]</i></p>
<b>Other Requirements</b>	<p><i>[For example, Nominated Personnel performing the Legal Services may be required to sign a Deed and acknowledgements relating to confidentiality, security, moral rights, intellectual property and other relevant matters as required by the Agency. Any Contract will be conditional on this occurring]</i></p> <p><i>[Insert any other relevant requirements or Legal Services Provider's offering above those specified in the Deed, including the Schedules, for example in relation to:</i></p> <ul style="list-style-type: none"> <li>a) <i>Special conditions</i></li> <li>b) <i>Reporting</i></li> <li>c) <i>Value Add Services</i></li> <li>d) <i>Performance and evaluation</i></li> <li>e) <i>Particular requirements concerning activities that must be undertaken jointly with other existing Agency Legal Services Providers]</i></li> </ul>
<b>Agency Information</b>	
<b>Agency Representative:</b>	<p><b>Name:</b> <i>[Insert contact name]</i></p> <p><b>Position:</b> <i>[Insert title]</i></p> <p><b>Address:</b> <i>[Insert address, including postcode]</i></p> <p><b>Email:</b> <i>[Insert email address]</i></p> <p><b>Telephone:</b> <i>[Insert telephone number, including area code]</i></p> <p><b>Mobile:</b> <i>[Insert mobile number]</i></p>
<b>Agency Address for Notices:</b>	<p><b>Physical Address:</b> <i>[Insert physical address for the Agency]</i></p> <p><b>Postal Address:</b> <i>[Insert the postal address for notices, if different to the physical address]</i></p> <p><b>Email:</b> <i>[Insert the email address for notices]</i></p>
<b>Agency Address for Invoices:</b>	<i>[Insert details]</i>
<b>Legal Services Provider Information</b>	

<b><u>Order for Legal Services</u></b>	
<b>Legal Services Provider Representative:</b>	<b>Name:</b> [Insert contact name] <b>Position:</b> [Insert title] <b>Address:</b> [Insert address, including postcode] <b>Email:</b> [Insert email address] <b>Telephone:</b> [Insert telephone number, including area code] <b>Mobile:</b> [Insert mobile number]
<b>Legal Services Provider Address for Notices:</b>	<b>Physical Address:</b> [Insert physical address for the Legal Services Provider] <b>Postal Address:</b> [Insert the postal address for notices, if different to the physical address] <b>Email:</b> [Insert the email address for notices]

Signed for and on behalf of  
Commonwealth of Australia

as represented by the [insert Agency  
details], [insert ABN]



\_\_\_\_\_  
Signature of authorised officer

\_\_\_\_\_  
name and title of authorised officer

<b><u>Legal Services Provider Response to Order</u></b>									
A separate Contract will be formed between the Legal Services Provider and an Agency when an Agency issues an Order to the Legal Services Provider unless the Order is rejected in accordance with clause 11.3.4.									
<b>Reject Order</b>	Legal Services Provider may reject an order for the following reasons: <table border="1" style="margin-left: 20px;"> <tbody> <tr> <td>Conflict of Interest</td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>Insufficiently skilled Personnel to perform the Legal Services required</td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>Unable to perform the Legal Services within the required timeframes</td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>Order is not substantially in accordance with the RFQ (if applicable) or the terms of the Head agreement</td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </tbody> </table>	Conflict of Interest	<input type="checkbox"/>	Insufficiently skilled Personnel to perform the Legal Services required	<input type="checkbox"/>	Unable to perform the Legal Services within the required timeframes	<input type="checkbox"/>	Order is not substantially in accordance with the RFQ (if applicable) or the terms of the Head agreement	<input type="checkbox"/>
Conflict of Interest	<input type="checkbox"/>								
Insufficiently skilled Personnel to perform the Legal Services required	<input type="checkbox"/>								
Unable to perform the Legal Services within the required timeframes	<input type="checkbox"/>								
Order is not substantially in accordance with the RFQ (if applicable) or the terms of the Head agreement	<input type="checkbox"/>								

<b>Conflict of Interest</b>	<i>[If you do not wish to reject the Order for Conflict of Interest, include details of any Conflict of Interest and how the Legal Services Provider proposes to resolve or otherwise deal with the Conflict of Interest]</i>
<b>Other Comments</b>	<i>[Any other relevant comments]</i>

# Schedule 7 – Performance Management Framework and Service Levels

## 1. Introduction

- 1.1. The purpose of this Schedule 7 is to outline the Performance Management Framework for this Head Agreement, and the agreed service standards and performance measures that are to be used in managing the contractual arrangement and relationship between AGD and the Legal Services Provider responsible for the provision of the Services.
- 1.2. The Service Levels specify the minimum expected performance and operation of the Services and will be used to measure the performance of the Legal Services Provider, and the satisfaction of Agencies in regard to the delivery of the Services.
- 1.3. The Legal Services Provider acknowledges that copies of this Schedule 7, and any performance management and Service Level analyses prepared by AGD, may be made available to Agencies who are the recipient of Services provided under this Head Agreement.
- 1.4. Where an Agency specifies performance management requirements and Service Levels in an Order, these are in addition to, and do not replace the Performance Management Framework and Service Levels in this Schedule 7.

## 2. Performance Management Framework

### 2.1. Overview

- 2.1.1 The Legal Services Provider acknowledges that its performance will be measured against the performance measures in clause 2.2, 2.3, 2.4, 2.5 and 2.6 of this Schedule 7.

### 2.2. Legal Expertise

- 2.2.1 The following Legal Expertise performance measures apply to this Head Agreement:
  - (a) legal advice is relevant, accurate, succinct, practical and offers creative solutions where applicable;
  - (b) the capability and availability of Nominated Personnel;
  - (c) preparation of documentation to high level of accuracy and in plain English;
  - (d) appropriate dispute resolution / litigation strategies; and
  - (e) the Services provided met the Agency needs, and requirements of the Order.

### 2.3. Communication

- 2.3.1. The following Communication performance measures apply to this Head Agreement:
  - (a) proactive and effective communication with Agencies;
  - (b) responsiveness; and
  - (c) Agency reference numbers included in all correspondence.

### 2.4. Customer Service

- 2.4.1. The following Customer Service performance measures apply to this Head Agreement:
  - (a) understanding of Agency's needs;
  - (b) effective management of timelines;

- (c) effective budget management;
- (d) service provision managed diligently; and
- (e) reasonable assistance provided in respect of any inquiry concerning the Legal Services Provider's performance of Ordered Services.

## 2.5. **Value for Money**

- 2.5.1. The following value for money performance measure applies to this Head Agreement:
- (a) the Services provided by the Legal Services Provider deliver value for money.

## 2.6. **Gender Equitable Briefing**

- 2.6.1. The following Gender Equitable Briefing performance measures apply to this Head Agreement:
- (a) the Legal Services Provider's provision of the Gender Equitable Briefing Report.

## 3. **Service Levels**

- 3.1 The Service Levels and Minimum Expected Performance for this Head Agreement are outlined in Table 1 of this Schedule 7.

- 3.2 The Service Levels apply from the Commencement Date.

### 3.3. **Responsibilities of the Legal Services Provider**

- 3.3.1. The Legal Services Provider will use its best endeavours to meet or exceed the Service Levels during the Head Agreement Period.

- 3.3.2. The Legal Services Provider will make all relevant Key Personnel, Nominated Personnel and Subcontractors aware of the Service Levels.

### 3.4. **Adjustments to the Service Levels**

- 3.4.1. The Legal Services Provider and AGD, both acting reasonably, may from time to time agree to adjust, remove or include new Service Levels, if:

- (a) Service Levels require adjustment through the Head Agreement Period;
- (b) additional Service Levels are required; or
- (c) a Service Level is no longer considered appropriate.

This is in addition to any reviews described in the Service Levels.

Any changes to the Service Levels must be made by Deed of Variation in accordance with clause 30.2 of the Head Agreement.

### 3.5. **Assessing Service Levels**

- 3.5.1. AGD will assess the Legal Services Provider's compliance with the Service Levels in accordance with this Schedule 7 and may:

- (a) consider the Legal Services Provider's performance against the Performance Management Framework, including performance trends;
- (b) request and consider additional information from Agencies;
- (c) use the results from any Agency satisfaction survey;
- (d) consider any information provided by the Legal Services Provider at a contract management meeting; and

- (e) consider information obtained through an audit conducted under clause 28 of the Head Agreement.

### **3.6. Process for Determining a Service Level Failure**

- 3.6.1. A Service Level Failure is recorded for each occasion the Legal Services Provider does not comply with, or maintain the minimum expected performance of a Service Level.
- 3.6.2. Where a Service Level has a minimum expected performance, availability or operation of 100%, if there is a single occasion where the performance of that Service Level is not satisfactory or maintained in accordance with the Service Level then it will constitute a Service Level Failure.
- 3.6.3. Clauses 3.6.1 and 3.6.2 of this Schedule 7 do not apply to the extent that a failure is caused by an event outside the reasonable control of the Legal Services Provider or is significantly contributed to by an act or omission by AGD or an Agency.

### **3.7. Legal Services Provider's Responsibility to Correct a Service Level Failure**

- 3.7.1. In the event of a Service Level Failure, AGD may request via notice that the Legal Services Provider provide AGD with a plan to remedy the failure, including a due date for correcting the failure.
- 3.7.2. If the failure is not possible to rectify, the plan must describe how the Legal Services Provider will ensure the failure does not happen again.
- 3.7.3. The Legal Services Provider must make any changes to the plan required by AGD, and implement the plan once approved by AGD.
- 3.7.4. AGD may communicate the Service Level Failure and any established interim processes or procedures with Agencies.
- 3.7.5. The Legal Services Provider must give notice to AGD when any Service Level Failure has been corrected and where relevant, outline the corrective action taken and steps developed to prevent future failures of a similar nature.
- 3.7.6. Failure to achieve one or more of the Service Levels, or a trend of Service Level Failure, may result in AGD enforcing its rights in relation to underperformance including but not limited to:
  - (a) requiring the Legal Services Provider to remedy a Service Level Failure in accordance with clause 3.7 of this Schedule 7;
  - (b) its rights in clause 25 of the Head Agreement.

**Table 1 – Service Levels and Minimum Expected Performance**

<b>Service Level No</b>	<b>Service Level &amp; Minimum Expected Performance</b>	<b>Performance Measures</b>	<b>Calculation Method</b>
<u>SL1</u>	<u>Reporting - Quality</u> (In accordance with the Reporting Specifications in Schedule 8)	<ul style="list-style-type: none"> <li>• 100% accuracy of the reporting data provided to AGD.</li> <li>• AGD is not required to request missing data or seek corrections on reports submitted by the Legal Services Provider.</li> </ul>	AGD will determine the level of compliance with this Service Level by calculating the number of instances (failures) that erroneous, incomplete, or reporting that is not compliant with the reporting specifications in Schedule 8 is provided by the Legal Services Provider.
<u>SL2</u>	<u>Reporting – On Time</u>	100% of reports and data files are provided to AGD within the timing specified in the reporting specifications in Schedule 8.	AGD will determine the level of compliance with this Service Level by calculating the number of instances that reporting is not provided within the reporting time frames detailed in the reporting specifications in Schedule 8.
<u>SL3</u>	<u>Service Delivery</u> (In accordance with the Performance Management Framework of this Schedule 7)	The Legal Services Provider's provision of the Services as detailed in an Order.	AGD will determine the level of compliance with this Service Level by analysing Agency reports on the Legal Services Provider's performance against the Performance Management Framework.
<u>SL4</u>	<u>Pro Bono</u>	The Legal Services Provider's best endeavours to achieve the Pro Bono Work target specified in clause 10.1 of the Head Agreement.	AGD will determine the level of compliance with this Service Level by analysing the Legal Services Provider's Pro Bono Work Report.
<u>SL5</u>	<u>Gender Equitable Briefing</u>	The Legal Services Provider's provision of the Gender Equitable Briefing Report.	AGD will analyse the level of compliance with this Service level by analysing the Legal Services Provider's Gender Equitable Briefing Report, and its consistency with data provided in the expenditure report.
<u>SL6</u>	<u>Value Add Services</u>	The Legal Services Provider's provision of the Value Add Services identified in Schedule 4.	AGD will determine the level of compliance with this Service Level by analysing the Legal Services Provider's Value Add Services Report.



# Schedule 8 – Reporting

## 1. Introduction

- 1.1. The purpose of this Schedule 8 is to outline the reporting requirements agreed between the Commonwealth, as represented by AGD, and the Services Provider.

## 2. File Naming Convention

- 2.1. Reports are to be clearly labelled, with the following file naming convention to be applied:

**XXX\_Name\_Date**

**Where:**

**XXX** is a three letter acronym to identify the Legal Services Provider

**Name** is the Report Name from the relevant report in Report Specification in clause 6 of this Schedule 8, i.e. 'ValAddSrvs'.

**Date** is the date of the report using a YYYYMMDD format, i.e. 30 September 2019, the date would be 20190930. The date of the report must be the last day of the relevant reporting period.

- 2.2. The three letter acronym to identify the Legal Services Provider is to be agreed with AGD, and cannot be varied without approval from AGD.

## 3. Formatting Standards

- 3.1. Formatting standards for each report are detailed in the Report Specifications in Table 2, Table 3, Table 4 and Table 5, with following additional formatting standards to apply:

- (a) case sensitivity, where values that are intended to be the same are truly identical and do not differ in case sensitivity or through abbreviation;
- (b) the letter 'A' in the Format Column of a Report Specification indicates the field is text field, the letter 'N' indicates the field is a number field, and the letters 'AN' indicate the field is a text and number field;
- (c) files are to be provided as comma-separated values (CSV) using semi-colon text delimited format, or any other format reasonably requested by AGD;
- (d) files must be compatible with Microsoft Excel 2007, and later versions, unless otherwise advised by AGD; and
- (e) reports must not be locked in a manner that prevents AGD from reviewing or analysing raw information in a report, or the information used to generate a report.

- 3.2. Where agreed by AGD, reports may be password protected for confidentiality or security purposes. Where AGD has agreed to a report being password protected the Legal Services Provider must provide report passwords to AGD.

#### 4. Report Timing Requirements

- 4.1. The Legal Services Provider must provide reports in accordance with the reporting schedule presented in Table 1.

**Table 1: Legal Services Provider Reporting Schedule**

Report	Schedule
Legal Services Expenditure Report	Within 10 Business Days of the end of each quarter, with the first report due within 10 Business Days of 30 September 2019.
Value Add Services Report	Annually, 20 Business Days after the end of the preceding financial year.
Pro Bono Work Report	Annually, 20 Business Days after the end of the preceding financial year.
Gender Equitable Briefing Report	Annually, 20 Business Days after the end of the preceding financial year.

- 4.2. Where the Legal Services Provider has not provided any Services within the reporting period, the Legal Services Provider must advise the Panel Manager that it has no reporting to provide for the reporting period.

#### 5. File Transfer Requirements and Security

- 5.1. Reports are to be transferred (submitted) to AGD electronically or as otherwise notified by AGD.
- 5.2. The Legal Services Provider warrants that all transferred files are free of harmful code i.e. viruses, trojans, worms, spyware, other malware and malicious code.

#### 6. Report Specifications

- 6.1. The Legal Services Provider agrees to provide the reports in the format specified in this clause.
- 6.2. **Legal Services Expenditure Report**
- 6.2.1. The Legal Services Provider must provide to AGD the Legal Services Expenditure Report in the format detailed in the Legal Services Expenditure Report Specification in Table 2 of this clause 6.2.
- 6.2.2. The Legal Services Expenditure Report is to be provided at the times specified in the Reporting Schedule in Table 1 of clause 4 of this Schedule.
- 6.2.3. The Report Name for the Legal Services Expenditure Report is 'LglSrvsExp'.
- 6.2.4. Only Services that have been invoiced and paid in full by an Agency within the reporting quarter are to be included in Legal Services Expenditure Report for the quarter.

**Table 2: Legal Services Expenditure Report Specification**

Position	Format	Header Name	Purpose	Reference Table	Notes
A	AN	SRVC_PRVDR	To uniquely identify the Legal Services Provider.		This is the 3 letter acronym agreed with AGD to identify the Legal Services Provider and cannot be varied without approval from AGD
B	AN	AGENCY	To provide an Agency identifier that can be crossed checked with the AGENCY_ABN.		AGD has a preference Legal Services Providers use Agency names detailed in the <i>Flipchart of Public Governance, Performance and Accountability Act 2013 (PGPA Act) Commonwealth entities and companies</i> at <a href="https://www.finance.gov.au/resource-management/governance/">https://www.finance.gov.au/resource-management/governance/</a>
C	N	AGENCY_ABN	To uniquely identify each Agency.		The Australian Business Number for each Agency, determined from the <i>List of Commonwealth entities and companies</i> at <a href="https://www.finance.gov.au/resource-management/governance/">https://www.finance.gov.au/resource-management/governance/</a>
D	A	AGENCY_TYPE	To allow AGD to undertake analysis of expenditure by the type of Agency.	GBE CCE NCE	Determined from the <i>Flipchart of Public Governance, Performance and Accountability Act 2013 (PGPA Act) Commonwealth entities and companies</i> at <a href="https://www.finance.gov.au/resource-management/governance/">https://www.finance.gov.au/resource-management/governance/</a>
E	A	LAW_AREA	To allow AGD to undertake analysis of expenditure by the Area of Law.	Workplace, Industrial Relations & Compensation Public Law Corporate & Commercial Property & Environment Litigation Specialisation Legal Support Services	To align with the Area of Law as detailed in the Statement of Requirement at Schedule 3.
F	A	PRACTICE_AREA	To allow AGD to undertake analysis of expenditure by the Practice Area.	<p><i>(For the Workplace, Industrial Relations &amp; Compensation Area of Law)</i></p> <p>Employment and industrial relations Commonwealth workers' compensation Workplace health and safety Compensation, damages and personal injury WIRC Dispute resolution and litigation</p> <p><i>(For the Public Law Area of Law)</i></p> <p>Administrative law Freedom of information, privacy and public interest disclosure Human rights and discrimination Debt recovery PL Dispute resolution and litigation</p> <p><i>(For the Corporate &amp; Commercial Area of Law)</i></p> <p>General contract law Procurement and tendering Governance and probity Corporations, markets, financial services and consumer credit law Insurance (other than workplace) Intellectual property Media Information and communications technology Insolvency and bankruptcy CC Dispute resolution and litigation</p> <p><i>(For the Property &amp; Environment Area of Law)</i></p>	The Practice Area should align with the Practice Areas under the Areas of Law as detailed in the Statement of Requirement at Schedule 3.

Position	Format	Header Name	Purpose	Reference Table	Notes
				<ul style="list-style-type: none"> <li>General property</li> <li>Transactional property</li> <li>Construction and infrastructure</li> <li>Environment</li> <li>PE Dispute resolution and litigation</li> </ul> <p><i>(For Legal Support Services)</i></p> <ul style="list-style-type: none"> <li>Agency Supervised Legal Services</li> <li>Law Firm Supervised Legal Services</li> <li>Administrative &amp; Operational Support</li> </ul>	
G	AN	INVOICE_NO	To provide a unique reference for any clarification on the Services provided by the Legal Services Provider.		Alpha numeric reference. Unlimited format. Note: Only invoices paid in full are to be included in this report.
H	AN	MATTER	A short name or descriptive reference to the matter invoiced.		
I	AN	INV_ISSUE_DATE	The date of issue for the corresponding invoice.		Date format DD/MM/YYYY.
J	AN	INV_PAID_DATE	The date the corresponding invoice was paid in full.		Date format DD/MM/YYYY.
K	N	LGL_SRV_EXP	Total of the Legal Services Fees invoiced in the corresponding invoice, excluding Counsel Fees, Disbursements and GST.		Numeric value in AU\$ to two decimal points.
L	N	DISBRS_EXP	The GST exclusive total of the Disbursements, excluding Counsel Fees invoiced in the corresponding invoice.		Numeric value in AU\$ to two decimal points.
M	N	COUNSEL_EXP	The GST exclusive total of the Counsel Fees invoiced in the corresponding invoice.		Numeric value in AU\$ to two decimal points.
N	N	GST_EXCL_TOTAL	The GST exclusive total for the Legal Services Fees, Disbursements and Counsel Fees in the corresponding invoice.		Numeric value in AU\$ to two decimal points
O	N	GST	Identifies the GST amount added to the Legal Services Fees, Disbursements and, Counsel Fees in the corresponding invoice.		Numeric value in AU\$ to two decimal points.
P	N	GST_TOTAL	The GST inclusive total for the Legal Services Fees,		Numeric value in AU\$ to two decimal points.

Position	Format	Header Name	Purpose	Reference Table	Notes
			Disbursements and Counsel Fees in the corresponding invoice.		

### 6.3. Value Add Services Report

- 6.3.1. The Legal Services Provider must provide to AGD the Value Add Services Report in the format detailed in the Value Add Services Report Specification in Table 3 of this clause 6.3.
- 6.3.2. The Value Add Services Report is to be provided at the times specified in the Reporting Schedule in Table 1 of clause 4 of this Schedule 8.
- 6.3.3. The Report Name for the Value Add Services Report is 'ValAddSrvs'.
- 6.3.4. Only Value Add Services, that were provided in the reporting period are to be included in this report.

**Table 3: Value Add Services Report Specification**

Position	Format	Header Name	Purpose	Reference Table	Notes
A	AN	SRVC_PRVDR	To uniquely identify the Legal Services Provider		This is the 3 letter acronym agreed with AGD to identify the Legal Services Provider and cannot be varied without approval from AGD
B	AN	AGENCY	To provide an Agency identifier that can be crossed checked with the AGENCY_ABN		AGD has a preference Legal Services Providers use Agency names detailed in the <i>Flipchart of Public Governance, Performance and Accountability Act 2013 (PGPA Act) Commonwealth entities and companies</i> at <a href="https://www.finance.gov.au/resource-management/governance/">https://www.finance.gov.au/resource-management/governance/</a>
C	N	AGENCY_ABN	To uniquely identify each Agency		The Australian Business Number for each Agency, determined from the <i>List of Commonwealth entities and companies</i> at <a href="https://www.finance.gov.au/resource-management/governance/">https://www.finance.gov.au/resource-management/governance/</a>
D	A	VALUE_ADD	To identify the category of the Value Add Service provided.	Ad-hoc Requests Foundation Training CPD Seminars Meeting Rooms Library & Research Facilities Precedent Documents Reverse Secondment Other	The Value Add Service should be selected from the Reference Table in this Report Specification
E	AN	DURATION	To identify the duration of the Value Add Service provided.		This is to be the number of hours that the Value Add Service was provided.
F	AN	DATE	The date the Value Add Services were provided.		Date format DD/MM/YYYY.

Position	Format	Header Name	Purpose	Reference Table	Notes
G	AN	LOCATION	To Identify the State or Territory where the Value Add Services were provided	ACT NSW QLD NT SA TAS VIC WA	

#### 6.4. Pro Bono Work Report

- 6.4.1. The Legal Services Provider must provide to AGD the Pro Bono Work Report in the format detailed in the Pro Bono Work Report Specification in Table 4 of this clause 6.4.
- 6.4.2. The Pro Bono Work Report is to be provided at the times specified in the Reporting Schedule in Table 1 of clause 4 of this Schedule 8.
- 6.4.3. The Report Name for the Pro Bono Work Report is 'ProBono'.
- 6.4.4. Only Pro Bono Work that was undertaken in the reporting period are to be included in this report.

**Table 4: Pro Bono Work Report Specification**

Position	Format	Header Name	Purpose	Notes
A	AN	SRVC_PRVDR	To uniquely identify the Legal Services Provider	This is the 3 letter acronym agreed with AGD to identify the Legal Services Provider, and cannot be varied without approval from AGD
B	AN	LAWYER_HRS	To identify the average number of Pro Bono hours per lawyer for the previous financial year.	
C	N	HOURS	To identify the total hours of Pro Bono work undertaken by the Legal Services Provider for the previous financial year.	

#### 6.5. Gender Equitable Briefing Report

- 6.5.1 The Legal Services Provider must provide to AGD the Gender Equitable Briefing Report in the format detailed in Table 5 of this clause 6.5 to demonstrate the reasonable endeavours required by sub-paragraph 4D(d) of Appendix D to the Legal Services Directions.
- 6.5.2 For the purposes of this clause 6.5, Senior Counsel means a Counsel of 10 or more years' standing at the independent bar or who is Queen's Counsel or Senior Counsel, and Junior Counsel means all other Counsel.
- 6.5.3 For the purposes of this clause 6.5, Gender X refers to any person who does not exclusively identify as either male or female, and includes indeterminate, intersex or unspecified.
- 6.5.4 The Gender Equitable Briefing Report is to be provided at the times specified in the Reporting Schedule in Table 1 of clause 4 of this Schedule 8.
- 6.5.5 The Report Name for the report is 'GECounsel'.
- 6.5.6 All briefs to Counsel that were invoiced in the reporting period are to be included in this report, including briefs that were ongoing from a previous year.

**Table 5: Equitable Briefing Report Specification**

Position	Format	Header Name	Purpose	Notes
A	AN	SRVC_PRVDR	To uniquely identify the Legal Services Provider	This is the 3 letter acronym agreed with AGD to identify the Legal Services Provider and cannot be varied without approval from AGD
B	AN	AGENCY	To provide an Agency identifier that can be crossed checked with the AGENCY_ABN	AGD has a preference Legal Services Providers use Agency names detailed in the <i>Flipchart of Public Governance, Performance and Accountability Act 2013 (PGPA Act) Commonwealth entities and companies</i> at <a href="https://www.finance.gov.au/resource-management/governance/">https://www.finance.gov.au/resource-management/governance/</a>
C	N	AGENCY_ABN	To uniquely identify each Agency	The Australian Business Number for each Agency, determined from the <i>List of Commonwealth entities and companies</i> at <a href="https://www.finance.gov.au/resource-management/governance/">https://www.finance.gov.au/resource-management/governance/</a>
D	N	COUNSEL_TNS	To identify no. of matters briefed to Senior Counsel	The total number of briefs to Senior Counsel for the agency during the year
E	N	COUNSEL_TVS	To identify \$ value of Senior Counsel briefs	The total AU\$ value of briefs to Senior Counsel for the agency during the year
F	N	COUNSEL_TNJ	To identify no. of matters briefed to Junior Counsel briefed	The total number of briefs to Junior Counsel for the agency during the year
G	N	COUNSEL_TVJ	To identify \$ value of Junior Counsel briefs	The total AU\$ value of briefs to Junior Counsel for the agency during the year
H	N	COUNSEL_MSN	To identify no. of matters briefed to male Senior Counsel	The total number of briefs to male Senior Counsel for the agency
I	N	COUNSEL_MSJ	To identify \$ value of male Senior Counsel briefs	The total AU\$ value of briefs to male Senior Counsel for the agency
J	N	COUNSEL_MJN	To identify no. of matters briefed to male Junior Counsel	The total number of briefs to male Junior Counsel for the agency
K	N	COUNSEL_MJV	To identify \$ value of male Junior Counsel briefs	The total AU\$ value of briefs to male Junior Counsel for the agency
L	N	COUNSEL_FSN	To identify no. of matters briefed to female Senior Counsel	The total number of briefs to female Senior Counsel for the agency
M	N	COUNSEL_FSV	To identify \$ value of female Senior Counsel briefs	The total AU\$ value of briefs to female Senior Counsel for the agency
N	N	COUNSEL_FJN	To identify no. of matters briefed to female Junior Counsel	The total number of briefs to female Junior Counsel for the agency
O	N	COUNSEL_FJV	To identify \$ value of female Junior Counsel briefs	The total AU\$ value of briefs to female Junior Counsel for the agency
P	N	COUNSEL_XSN	To identify no. of matters briefed to Gender X Senior Counsel	The total number of briefs to Gender X Senior Counsel for the agency
Q	N	COUNSEL_XSV	To identify \$ value of Gender X Senior Counsel briefs	The total AU\$ value of briefs to Gender X Senior Counsel for the agency
R	N	COUNSEL_XJN	To identify no. of matters briefed to Gender X Junior Counsel	The total number of briefs to Gender X Junior Counsel for the agency
S	N	COUNSEL_XJV	To identify \$ value of Gender X Junior Counsel briefs	The total AU\$ value of briefs to Gender X Junior Counsel for the agency
T	N	COUNSEL_FSP	To identify proportion of matters briefed to female Senior Counsel	% of total female Senior Counsel briefed (Column L)/(Column D)*100
U	N	COUNSEL_FSM	To identify proportion of female Senior Counsel briefs by \$ value	% of female Senior Counsel briefs value (Column M)/(Column E)*100
V	N	COUNSEL_FJP	To identify proportion of matters briefed to female Junior Counsel	% of total junior Counsel briefs to women (Column N)/(Column F)*100
W	N	COUNSEL_FJM	To identify proportion of female Junior Counsel briefs to women by \$ value	% of female Junior Counsel briefs value (Column O)/(Column G)*100

# Schedule 9 – Legal Services Provider’s Confidential Information

The following information is confidential to the Legal Services Provider:

<b>Description of Information</b>	<b>Reason for Confidentiality</b>	<b>Period of Confidentiality</b>
Schedule 4 - Fees and Disbursements	Commercially sensitive information	Head Agreement Period



# Schedule 10 – Deed of Variation

**Parties**

- A. Commonwealth of Australia as represented by the Attorney-General's Department ABN 92 661 124 436 (**AGD**); and
- B. [Name and ABN of Legal Services Provider] (**Legal Services Provider**)

**Recitals**

- A. AGD and the Legal Services Provider are party to the Head Agreement dated [insert date] for the provision of Legal Services.
- B. The parties wish to vary the Head Agreement as provided by this Deed of Variation.

The parties agree as follows:

The Head Agreement is varied in accordance with the terms set out below. Unless specifically stated in this Deed of Variation, all terms and conditions of the Head Agreement continue unaffected.

<b>1.</b>	<b>Deed of Variation number</b>	
<b>2.</b>	<b>Raised by</b>	
<b>3.</b>	<b>Details of change (use attachments if required)</b>	
<b>4.</b>	<b>Implementation date of variation</b>	
<b>5.</b>	<b>Effect on services</b>	
<b>6.</b>	<b>Plan for implementing the change [if any]</b>	
<b>7.</b>	<b>Effect on price [if any]</b>	
<b>8.</b>	<b>Effect on service levels [if any]</b>	
<b>9.</b>	<b>Other relevant matters (e.g. transitional impacts)</b>	

**Variation to Head Agreement:**

[Insert description of variation]

AGD

Name (print)

\_\_\_\_\_

\_\_\_\_\_

Position

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Signature

---

Date

---

---

Legal Services  
Provider

Name (print)

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Position

---

Signature

---

Date

---

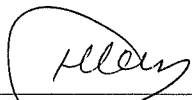
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# Signing Page

## Executed as a Deed

**SIGNED, SEALED AND DELIVERED** for )  
and on behalf of the Commonwealth of )  
Australia, represented by the Attorney- )  
General's Department  
ABN 92 661 124 436 by:

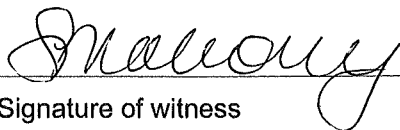
Tamsyn Harvey  
Name of signatory

  
Signature

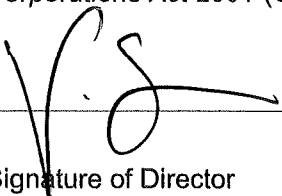
6/8/2019  
Date

In the presence of:

SUE MAHONY  
Name of witness

  
Signature of witness

**SIGNED, SEALED AND DELIVERED** by DFC  
Legal Pty Ltd trading as lawyerbank  
(ABN 23 159 266 583) by the following  
persons in accordance with section 127 of the  
*Corporations Act 2001* (Cth):

  
Signature of Director

Vanessa Smith  
Name of Director (print)

19 July 2019  
Date

  
Signature of Director/Company Secretary

Edward Egers  
Name of Director/Company Secretary (print)

OR

**SIGNED, SEALED AND DELIVERED** for and on behalf of DFC Legal Pty Ltd trading as lawyerbank (ABN 23 159 266 583) under power of attorney dated **[INSERT date of power of attorney]**:

In the presence of:

---

Signature of Attorney

---

Signature of witness

---

Name of Attorney (print)

---

Name of witness (print)

---

Date

**OR for partnerships:**

**SIGNED, SEALED AND DELIVERED** for and on behalf of DFC Legal Pty Ltd trading as lawyerbank (ABN 23 159 266 583) by:

In the presence of:

---

Signature

---

Signature of witness

---

Name of Signatory (print)

---

Name of witness (print)

---

Date

s47F

**| Legal Services Panel – Whole of Australian Government | Order (to be used following an RFQ)**

<b><i>Order for Legal Services</i></b>	
Vanessa Smith Lawyerbank Level 4, 33 Allara Street Canberra 2601 23 159 266 583 <b>Sent via:</b> s47F <a href="mailto:Vanessa.smith@lawyerbank.com.au">@industry.gov.au : Vanessa.smith@lawyerbank.com.au</a>	
<b><i>Agency Order Information</i></b>	
<b>Agency</b>	Department of Industry, Science, Energy and Resources
<b>Agency File Reference</b>	LEX 68492
<b><i>Order Commencement Date and Term</i></b>	
<b>Order Commencement Date</b>	s47F
<b>Order Term and Extensions</b>	Initial completion date of s47F The Agency may in its sole discretion extend the Completion Date beyond the proposed contract term, on the same terms and conditions as the RFQ, by giving written notice to the Legal Services Provider prior to the end of the proposed contract
<b><i>Statement of Work</i></b>	
<b>Personnel</b>	s47F The Agency approves the use of Limber as a subcontractor of lawyerbank for this engagement
<b>Statement of Work</b>	As per the RFQ sent to lawyerbank on 29 March 2021 and as reasonably requested by the Agency.
<b>Fees and Disbursements</b>	Rates as per the RFQ response from lawyerbank on 31 March. Maximum Contract Value of s47F
<b><i>Agency Information</i></b>	
<b>Agency Address for Notices:</b>	<b>Physical Address:</b> 10 Binara St Canberra ACT 2600 <b>Postal Address:</b> GPO 2013 Canberra ACT 2600 <b>Email:</b> <a href="mailto:LegalPMU@industry.gov.au">LegalPMU@industry.gov.au</a>

**Order for Legal Services**

<b>Agency Address for Invoices:</b>	<a href="mailto:Accounts@industry.gov.au">Accounts@industry.gov.au</a> <b>AND</b> <a href="mailto:LegalPMU@industry.gov.au">LegalPMU@industry.gov.au</a>
<b>Action Required:</b>	<b>Please respond with your acknowledgement of this Order via return email. If you would prefer to reject this Order, please complete the table below.</b>

**Legal Services Provider Response to Order**

A separate Contract will be formed between the Legal Services Provider and an Agency when an Agency issues an Order to the Legal Services Provider unless the Order is rejected in accordance with clause 11.3.4.

<b>Reject Order</b>	<p>Legal Services Provider may reject an order for the following reasons:</p> <table border="1"> <tr> <td data-bbox="469 768 1230 824">Conflict of Interest</td> <td data-bbox="1230 768 1291 824"><input type="checkbox"/></td> </tr> <tr> <td data-bbox="469 824 1230 902">Insufficiently skilled Personnel to perform the Legal Services required</td> <td data-bbox="1230 824 1291 902"><input type="checkbox"/></td> </tr> <tr> <td data-bbox="469 902 1230 981">Unable to perform the Legal Services within the required timeframes</td> <td data-bbox="1230 902 1291 981"><input type="checkbox"/></td> </tr> <tr> <td data-bbox="469 981 1230 1059">Order is not substantially in accordance with the RFQ (if applicable) or the terms of the Head agreement</td> <td data-bbox="1230 981 1291 1059"><input type="checkbox"/></td> </tr> </table>	Conflict of Interest	<input type="checkbox"/>	Insufficiently skilled Personnel to perform the Legal Services required	<input type="checkbox"/>	Unable to perform the Legal Services within the required timeframes	<input type="checkbox"/>	Order is not substantially in accordance with the RFQ (if applicable) or the terms of the Head agreement	<input type="checkbox"/>
Conflict of Interest	<input type="checkbox"/>								
Insufficiently skilled Personnel to perform the Legal Services required	<input type="checkbox"/>								
Unable to perform the Legal Services within the required timeframes	<input type="checkbox"/>								
Order is not substantially in accordance with the RFQ (if applicable) or the terms of the Head agreement	<input type="checkbox"/>								
<b>Conflict of Interest</b>	<i>[If you do not wish to reject the Order for Conflict of Interest, include details of any Conflict of Interest and how the Legal Services Provider proposes to resolve or otherwise deal with the Conflict of Interest]</i>								
<b>Other Comments</b>	<i>[Any other relevant comments]</i>								

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## | Legal Services Panel – Whole of Australian Government | Request for Quote Template

*This template is to be used when procuring from the above Panel. Any procurements made outside of this panel require a different template found on the Procurement pages of iCentral.*

### *Request For Quote for Legal Services*

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### *RFQ and Proposed Order Details*

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<b>Proposed Order Term and/or Completion Date</b>	s22 The Agency may in its sole discretion extend the Completion Date beyond the proposed contract term, on the same terms and conditions as the RFQ, by giving written notice to the Legal Services Provider prior to the end of the proposed contract
<b><i>Statement of Work</i></b>	
<b>Area of Law</b>	Public Law
<b>Practice Area</b>	Freedom of Information, Privacy and Public Interest Disclosure
<b>Detailed Statement of Work:</b>	The Department of Industry, Science, Energy and Resources processes applications under the <i>Freedom of Information Act 1982</i> for a very busy department and provides assistance and advice on Freedom of Information (FOI) to 6 Ministers' offices. The FOI team currently consists

**Request For Quote for Legal Services**

of 3 FOI officers, supervised by a Principal Legal Counsel, and sits within the department's Legal Audit and Assurance Branch.

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The department supports flexible work arrangements. The successful candidate could work in the department's Canberra office or remotely, or a combination of both. Candidates who are able to work full-time are desirable, however, candidates who wish to work part time will also be considered.

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