

## **INTERPRETATION:**

**Defined Expressions:** Expressions defined in the main body of this Agreement bear that meaning in the whole of this Agreement including the schedules and the recitals unless the context otherwise requires.

**Gender:** Words importing one gender shall include all genders.

**Schedules etc.:** References to schedules, clauses and sub-clauses are references to schedules, clauses and sub-clauses of this Agreement.

**Plural and Singular:** Words importing the singular shall include the plural and vice versa unless the context otherwise requires.

**Headings:** Clause and other headings are for ease of reference only and shall not be deemed to form any part of the context or to affect the interpretation of this Agreement.

**Statutory provisions:** References to statutes, regulations, ordinances, bylaws or other instruments include any amendment, substitution or re-enactment.

**Documents:** references to any document (however described) are references to that document as modified, novated, supplemented, varied or replaced from time to time, and in any form, whether paper based or in electronic form.

**Inclusive Expressions:** wherever the words **includes** or **including** (or any similar words) are used, they are deemed to be followed by the words "without limitation".

RELEASED UNDER THE  
OFFICIAL INFORMATION ACT

## Schedule 1 - Scope of Services

### 1. OBJECTIVES

- 1.1. ACC and the Supplier acknowledge and agree that the key objectives they wish to achieve as part of the Services are:
  - 1.1.1. early customer engagement giving Customers the opportunity to be heard; and
  - 1.1.2. timely resolution of disputed decisions through Review and/or dispute resolution (as applicable).

### 2. GENERAL REQUIREMENTS

- 2.1. **Regular Reporting:** The Supplier will provide: the monthly reports, by no later than the 5<sup>th</sup> day of each month. The monthly reports will consist of:
  - 2.1.1. performance: against each of the KPI's and the adjournment service level (monthly and year to date);
  - 2.1.2. work on hand, including as part of the Accredited Employer Services:
    - 2.1.2.1. total reviews/ADR on hand (month and year to date);
    - 2.1.2.2. total reviews received (month and year to date); and
    - 2.1.2.3. total adjournments (month and year to date) and rationales;
  - 2.1.3. work disposed of, including as part of the Accredited Employer Services:
    - 2.1.3.1. total reviews completed (month and year to date); and
    - 2.1.3.2. total ADR completed (month and year to date);
  - 2.1.4. health and safety incidents;
  - 2.1.5. continuous improvement; and
  - 2.1.6. such additional reports as ACC requests from time to time, and such reports to be in the form of the reporting template(s) provided by ACC.
- 2.2. **ACC referral:** When ACC receives an application for review under Part 5 of the AC Act, ACC may Refer the matter to Review Services, after which the Supplier will provide Reviewer Administration Services in respect of each such review and/or Dispute Resolution Services. A matter may be resolved by a combination of Review Services and Dispute Resolution Services.
- 2.3. **General:** In providing the Services, the Supplier will:
  - 2.3.1. comply with the AC Act, and/ or Part 6 of the Accident Insurance Act 1998, Part 6 of the Accident Rehabilitation and Compensation Insurance Act 1992, Part 9 of the Accident Compensation Act 1982 and in Part 7 Accident Compensation Act 1972 and any subsequent amendments, whichever is/are applicable;
  - 2.3.2. work effectively across ACC's diverse range of Customers, appreciating and respecting the important cultural dimensions and taking account of individual customer needs;
  - 2.3.3. ensure it has sufficient capacity and resources:
    - 2.3.3.1. to provide Services as and when required by ACC; and
    - 2.3.3.2. to deal with large claim files (which may be longer than 6000 pages), which may include a significant amount of technical / medical detail.
  - 2.3.4. as soon as the Supplier is aware, advise ACC of any proceeding that has commenced relating to the Services in which the Supplier has been named as a respondent.;
- 2.4. **Customer Satisfaction Survey:**
  - 2.4.1. The Supplier will prepare a customer satisfaction survey and will provide such customer satisfaction survey to ACC for approval. Once approved by ACC, the customer satisfaction survey will be the "Approved Customer Satisfaction Survey".

- 2.4.2. The Supplier will be required to send the Approved Customer Satisfaction Survey to each relevant Customer:
- 2.4.2.1. in the case of Reviewer Administration Services, prior to the Reviewer issuing its review decision; and
  - 2.4.2.2. in the case of Dispute Resolution Services, at an appropriate time following the meeting described in paragraph 5.6.
- 2.5. **Complaints management process:** The Supplier must establish a complaints management process and appoint an internal complaints investigator. The internal complaints investigator must be a separate individual to the person who provides the Services in respect of a particular Referred Matter.
- 2.6. **In-person meetings:**
- 2.6.1. Where required, the Supplier will hold or arrange for, as applicable, in-person meetings in Hawkes Bay (Hastings/Napier), Whangarei, Auckland, Hamilton, New Plymouth, Wellington, Blenheim/Nelson, Christchurch or Dunedin.
  - 2.6.2. Venues where in-person meetings will occur:
    - 2.6.2.1. will either comply with ACC's minimum Building Security standards, as attached to Annex 1 of Schedule 1, or where a venue does not comply with the minimum Building Security standards, the Supplier will take reasonable steps to minimise any risk to the Supplier and those attending the in-person meeting caused by such non-compliance; and
    - 2.6.2.2. subject to clause 33.2, will be able to be set up in accordance with the layout shown in Annex 4 to this Schedule 1.
  - 2.6.3. The Supplier is responsible for carrying out annual audits of the venues, and rooms, in which in-person meetings occur to check that the venues and rooms meet the standards described in paragraph 2.6.2. Where the Supplier identifies any non-compliance with the standards during an audit, the Supplier will notify ACC of such non-compliance and, where possible, will take reasonable action to address such non-compliance.
- 2.7. **Deemed Review Decision:**
- 2.7.1. The Supplier will provide the Services in a manner so as to avoid a "deemed review decision" occurring under section 146 of the AC Act. This may involve the Supplier organising a hearing date so as to avoid a "deemed review decision" occurring.
  - 2.7.2. Under section 146 of the AC Act, a deemed review decision means that the Reviewer is deemed to have made a decision on a review in favour of the applicant for review on the date which is three months after the review application is received by ACC if:
    - 2.7.2.1. a date for a review hearing has not been set within three months after the date that a review application is received by ACC; and
    - 2.7.2.2. the applicant for review did not cause or contribute to the delay.
  - 2.7.3. Where ACC has provided instructions in a timely manner and the actions or inaction of the Supplier in providing the Services result in a deemed decision under section 146 of the AC Act, ACC may, by notice, claim from the Supplier costs (including amounts ACC is required to pay to a Customer), liabilities and losses suffered or incurred by ACC as a direct result of the deemed decision. Determination of whether ACC will make a claim against the Supplier under this paragraph will lie with ACC's Head of Operations following a recommendation from ACC's Manager Resolution Services and following consultation with the Supplier's Contract Manager.
- 2.8. **Staffing:**
- 2.8.1. Any contract of service or contract for services entered into with staff providing Reviewer Administration Services or Dispute Resolution Services will include a provision which requires the individual to comply with all the duties and obligations imposed under the AC Act including the obligation to act independently of ACC.
  - 2.8.2. The provision of all staff will be at the Supplier's expense.
  - 2.8.3. At all times those employees interfacing with the public will be employees who are appropriate for that work and have the degree of skill care and diligence of a competent

professional required to pleasantly and helpfully deal with the public in all circumstances in a manner consistent with the requirements of the AC Act.

- 2.8.4. Non performing staff will be managed by the Supplier in accordance with its performance management policies or contracts respectively.

### 3. REVIEWER ADMINISTRATION SERVICES

#### 3.1. Overview:

**3.1.1 Application:** This clause 3, clause 4, and clause 6 apply if Reviewer Administration Services are included in the list on the first substantive page of this Agreement under the heading "Services included in this Agreement".

**3.1.2 ACC referral:** When ACC receives an application for review under Part 5 of the AC Act, ACC may Refer the matter to the Supplier for the Supplier to allocate the review to a Reviewer. ACC will indicate whether the Referred Matter is Referred for the Supplier to provide Reviewer Administration Services only or a combination of Reviewer Administration Services and Dispute Resolution Services.

#### 3.2. For each Referred Matter for Reviewer Administration Services, the Reviewer Administration Services will consist of, as applicable:

- 3.2.1. undertaking case conferences;
- 3.2.2. arranging formal review hearings where the relevant Reviewers will hear the review application;
- 3.2.3. facilitating on the papers reviews, which means that ACC will provide submissions to the Supplier to provide to the Reviewer and the Reviewer will conduct the review without holding a hearing;
- 3.2.4. the provision of a documented review decision prepared by the Reviewer to advise ACC and the Customer of the outcome of the review process;
- 3.2.5. where requested by ACC, the Supplier will provide a transcript in accordance with paragraph 3.16;
- 3.2.6. engagement with Accredited Employers or their third party administrators, as described in paragraph 4 of this Schedule 1; and
- 3.2.7. promptly paying each Reviewer for the Review Services provided in accordance with the Agreement.

#### 3.3. **Skills:** The Supplier will ensure that before providing ACC with a list of individuals who have indicated to the Supplier their interest in acting as Reviewers, the Supplier considers the individuals have the following capabilities:

- 3.3.1. a specific understanding of, and experience applying, Laws relating to ACC and Laws relating to privacy;
- 3.3.2. an understanding of, and experience applying, medico-law or clinical comprehension; and
- 3.3.3. an understanding of dispute resolution.

#### 3.4. **Capacity:** The Supplier will ensure it has the resources, personnel and capacity to:

- 3.4.1. administer a minimum of 500 reviews per year if required. The Supplier acknowledges that ACC is under no obligation to Refer 500 reviews per year to the Supplier to administer; and
- 3.4.2. undertake case conferences within a minimum of 10 Working Days' notification from ACC.

#### 3.5. **Video conference presence:** The Supplier agrees that it will arrange for case review hearings and if requested case conferences mainly to be conducted using video conferencing. The Supplier will be responsible for ensuring it has secure video conferencing capabilities as necessary for the Supplier to provide the Services.

#### 3.6. **Process:**

- 3.6.1. The Supplier will provide a monthly rolling, forward schedule of Reviewer availability for case conferences at least two months in advance.

- 3.6.2. ACC will Refer reviews to the Supplier as and when required. ACC will start the process by scheduling a case conference with the Supplier, either manually or through a scheduling tool.
- 3.6.3. When Referring a matter to the Supplier, ACC will provide the Supplier with a minimum of 10 Working Days' notification of the case conference.
- 3.6.4. Once ACC has Referred a matter to the Supplier:
- 3.6.4.1. the Supplier will be responsible for carrying out all administrative functions in relation to the review process;
  - 3.6.4.2. the Supplier will allocate the review to a Reviewer to provide Review Services;
  - 3.6.4.3. the Supplier will notify the Customer of the case conference date, using the Customer's preferred method of notification;
  - 3.6.4.4. ACC will provide the Customer with information on 'what to expect' from a case conference and review hearing; and
  - 3.6.4.5. ACC will provide the Supplier (including for provision to the relevant Reviewer) and the Customer with documents and information relevant to the Referred Matter no less than 8 Working Days prior to the case conference. In respect of the Accredited Employer Services, the Accredited Employer (as that term is defined in paragraph 4.1) must provide the full file and any other information relevant to the Referred Matter prior to the case conference.
- 3.6.5. ACC will provide the relevant documents to the Supplier by electronic file transfer unless otherwise agreed by the Parties. Both parties agree that files which are transmitted via electronic file transfer up to 23.59 on a Working Day are deemed received on that day. Where electronic file transfer is used, the electronic file transfer receipt is the agreed record of time of receipt.
- 3.7. **Case conference:**
- 3.7.1. The Reviewer will undertake case conferences by teleconference, unless a Customer specifically requests a video conference. The case conference is expected to be a maximum of 30 minutes duration, unless exceptional circumstances apply.
  - 3.7.2. The Supplier must ensure a case conference is completed prior to any review hearing.
  - 3.7.3. The case conference will consist of:
    - 3.7.3.1. discussion of the matter in dispute;
    - 3.7.3.2. consideration of other options for resolution;
    - 3.7.3.3. agreeing the timetable for gathering any additional information;
    - 3.7.3.4. preparation of the parties for review; and
    - 3.7.3.5. setting the review hearing date if required.
  - 3.7.4. The case conference may result in:
    - 3.7.4.1. a withdrawn review;
    - 3.7.4.2. an agreement to proceed with alternative resolution options; and/or
    - 3.7.4.3. an agreement on a practical review hearing date, such date to allow time for the parties to prepare and gather any additional information or supporting evidence that may be required. If this is the case, the Supplier will provide written notice of the review hearing date to all parties.
- 3.8. **Withdrawal:** If for any reason a review is to be withdrawn after the Supplier has been requested to arrange a review hearing, ACC will advise the Supplier in writing as soon as reasonable of the date of the withdrawal and confirm that all other parties to the review have been advised (names and addresses). If the Supplier receives a withdrawal notification other than from ACC, the Supplier will advise ACC in writing within one Working Day of the date of the withdrawal and confirm whether all other parties to the review (where applicable) have been advised (names and addresses). Following

a withdrawal, the Supplier will be entitled to invoice ACC for the withdrawn review fee described in Schedule 2 – Pricing.

3.9. **Review hearings:**

3.9.1. The Supplier will ensure that review hearings are conducted by Reviewers in accordance with the requirements of Part 5 of the AC Act, and that the Reviewer uses an investigative approach.

3.9.2. Review hearings will typically be scheduled for one hour, with the Reviewer, the Customer (and any other relevant parties) and ACC using videoconference to attend (with teleconference as a back-up option).

3.9.3. In-person hearings will be held only as required by the Customer.

3.9.4. ACC will provide written submissions to the Supplier to pass on to the Reviewer, or to the Reviewer directly, at least 10 Working Days prior to the review hearing.

3.9.5. As part of the review process, the Reviewer will consider the review application, any new supporting documentation, the written submissions and the original decision to determine the appropriate course of action.

3.9.6. Within 28 Days of the date of the review hearing, the Reviewer will issue a binding written review decision to ACC and the Customer in accordance with Part 5 of the AC Act, which will detail:

3.9.6.1. the outcomes of the review process; and

3.9.6.2. whether review costs are awarded (in accordance with the Accident Compensation (Review Costs and Appeals) Regulations 2002).

3.9.7. **Exceptional case fees:** in exceptional cases (which may be simple or complex cases by category, but which have become very time consuming due the nature of the issues, evidence, parties or other factors) the Supplier may notify the ACC Relationship Manager and request approval for the agreed number of hours to be charged, at an hourly rate set out in Schedule 2. ACC will respond as soon as practicable.

3.10. **Appeal:** The Customer and ACC can appeal, to the District Court, the Reviewer's decision or a decision as to the award of costs. The timeframe in which to appeal is 28 Days from the date of the review decision.

3.11. **Adjournments:** Where the Customer or ACC request an adjournment, the Reviewer may in their discretion grant the adjournment request as it sees fit. The Supplier is subject to a service level relating to adjournments, as set out in Schedule 3.

3.12. **Internal peer review process:** The Supplier must establish an internal peer review process, and as part of this internal peer review process, the Supplier will ensure that the Reviewers' review decisions are reviewed for quality.

3.13. **External review:**

3.13.1. ACC will engage an independent external peer reviewer to review a sample of each Reviewer's review decisions to check the decisions for consistency and quality.

3.13.2. Where requested by ACC, the Supplier will submit to the external reviewer such number of Reviewer review decisions as requested by ACC to be provided. Prior to sending the review decisions to the external reviewer, the Supplier will carry out such redactions on the decisions as are necessary to remove any identifying information, including any personal information.

3.13.3. The external reviewer will:

3.13.3.1. review the decisions issued by Reviewers and provided by the Supplier; and

3.13.3.2. provide the Supplier (and ACC on request) with a report evaluating the review decisions issued by Reviewers provided by the Supplier and the report will include a score between 1 and 5 for each review decision, with 5 the highest score. If ACC receives the report with the external reviewer's analysis and scores ACC will not have any involvement in the evaluation of the review decisions other than receipt of this report.

3.13.4. The Supplier will consider the feedback in the report provided by the external reviewer and take such feedback on board in its provision of the Services going forward.

- 3.13.5. The Supplier is subject to a KPI relating to external reviews, as described in Schedule 3 – Service KPIs.
- 3.14. **Storage of the full record of a review hearing:**
- 3.14.1. The Supplier will, on behalf of ACC, keep a record of the evidence given at review hearings managed by the Supplier for ten years from the date the decisions are issued, at which time the recording will be securely destroyed.
- 3.14.2. The record of a review hearing will be available in the form of a written transcript or electronic sound file in accordance with section 154 of the AC Act.
- 3.14.3. The Supplier will maintain a register of all the recordings of review hearings kept.
- 3.15. **Transcripts:** Where an appeal is lodged against a review decision, ACC will provide written notice to the Supplier requesting that the Supplier provide a transcript of the review hearing and any additional review hearing notes. Following such request, the Supplier will promptly:
- 3.15.1. provide a complete transcript of the review hearing and any additional review hearing notes; and
- 3.15.2. certify the transcript and notes are accurate.

#### **4. ACCREDITED EMPLOYER SCHEME:**

- 4.1. In this paragraph 4:
- 4.1.1. "Accredited Employer" means an employer who enters into an Accredited Employer Agreement.
- 4.1.2. "Accredited Employer Agreement" means an Accredited Employer Programme Accreditation Agreement entered into between ACC and an employer under the framework established under section 183 of the AC Act.
- 4.1.3. "Claimant" has the same meaning as that expression has in any relevant Accredited Employer Agreement.
- 4.1.4. "Injured Employee" has the same meaning as that expression has in any relevant Accredited Employer Agreement.
- 4.2. Under the "Accredited Employer Programme Accreditation Agreements", ACC has certain functions, duties and powers in respect of reviews and appeals relating to Injured Employees. ACC and the Supplier agree that the Supplier will allocate Reviewers to provide review services as set out in Schedule B of the Accredited Employer Agreement.
- 4.3. The Supplier will provide Reviewer Administration Services to Accredited Employers on the same basis as the Supplier provides Reviewer Administration Services to ACC, subject to this paragraph 4.
- 4.4. The Supplier will perform and discharge its obligations under this paragraph 4 and ACC authorises the Supplier to invoice Accredited Employers for the performance of such obligations from the Commencement Date until the later of one calendar month after ACC provides the Supplier with written notice cancelling the Services provided under this paragraph 4 of this Schedule 1 and any date specified in such a notice (such period being the "Term" of this paragraph 4).
- 4.5. The Supplier agrees that during the Term it will, provide Reviewer Administration Services to Accredited Employers:
- 4.5.1. On the same terms and prices as specified in this Agreement (with any minor changes to administration to reflect the Accredited Employer arrangement); and
- 4.5.2. As if "ACC" in Schedule 1 and Schedule 2 was a reference to a particular Accredited Employer except that an Accredited Employer cannot exercise or enforce rights which by their nature are intended to be exclusive to ACC. In particular, the Services provided by the Supplier to an Accredited Employer will include:
- 4.5.2.1. Receiving the full file relating to the Referred Matter and copies of the application for review completed by the Claimant (including the initial decision and the administrative review decision notified under the Accredited Employer Agreement).
- 4.5.2.2. Where requested by ACC, requesting and receiving a certificate from the relevant Accredited Employer in writing confirming that the Claimant has been provided with a copy of the application for review completed by the Claimant and a full copy of the claim file that contains all the information relating to the claim that is, and has

been, in the possession of the Accredited Employer, and that the claim file is the full file.

- 4.5.2.3. Sending the Customer a letter acknowledging receipt of the application for review and explaining the effect of sections 146 and 147 of the Act and sending the Accredited Employer a copy of the same letter.
        - 4.5.2.4. Thereafter providing Reviewer Administration Services in accordance with the Act and in accordance with paragraph 3 of this Schedule 1.
- 4.6. The Supplier will notify ACC if it does not receive the full claim file and certificate where they are requested by ACC. The Supplier will also notify ACC if an Accredited Employer fails to disclose any relevant information that it has either to the Supplier or to the Claimant. ACC will require the Accredited Employer to comply with the relevant performance requirements set out in the Accredited Employer Agreement.
- 4.7. **Supplier instructed to allocate a Reviewer:** When the Supplier receives a Referral for a matter from an Accredited Employer, the Supplier will allocate a Reviewer to undertake review services under Schedule B of the Accredited Employer Agreement. The Supplier will provide Reviewer Administration Services, and invoice Accredited Employers directly in respect of the Services described in this paragraph 4 and appeals relating to Injured Employees, and generally to manage the customer relationship with the Accredited Employer in respect of reviews, appeals and other dispute resolution services listed in this paragraph 4. The Supplier will also allocate Reviewers to conduct Accredited Employer lump sum technical determinations as provided under Schedule AA of the Accredited Employer Agreement. The Accredited Employer must represent ACC on the review except where the application for review is against a decision that the Injured Employee did not suffer work-related personal injury. Where the exception applies, the Accredited Employer may represent its own interests as a party, and ACC may represent itself.
- 4.8. **Supplier to invoice Accredited Employers directly:**
  - 4.8.1. The Supplier will, in its own name, invoice each Accredited Employer for the costs (plus GST) of administering each review in accordance with the applicable charges set out in Schedule 2 -Pricing, being the costs which the Accredited Employer must pay under clause B 6.9 of each Accredited Employer Agreement. The Supplier will collect payment from such Accredited Employer.
  - 4.8.2. If all or part of an amount invoiced against an Accredited Employer by the Supplier has not been paid within three calendar months of the relevant invoice, the Supplier will report this to ACC, providing full particulars relating to the outstanding amount, and may take any enforcement action to recover the amount unless ACC instructs otherwise, in which case ACC will pay the outstanding amount to the Supplier.
  - 4.8.3. By agreement between ACC and the Supplier, in the event an Accredited Employer has not paid a valid invoice for Accredited Employer Services after 60 Days, as a result of becoming insolvent, the Supplier will assign to ACC the amount of any debt owing to it, and upon doing so, the Supplier shall be released from any further liability in respect thereof to ACC.
- 4.9. **Supplier to manage relationship:** The Supplier will competently and carefully manage the relationship with each Accredited Employer concerning reviews and appeals in relation to Injured Employees and will maintain at all times a cordial and business-like relationship. However, the Supplier will act in these respects subject to any instruction it receives from ACC, provided none of the above compromises the need for independence.

## 5. DISPUTE RESOLUTION SERVICES

- 5.1. Application: This clause 5 applies if Dispute Resolution Services are included in the list on the first substantive page of this Agreement under the heading "Services included in this Agreement".
  - 5.1.1. **ACC referral:** When ACC receives an application for review under Part 5 of the AC Act, or there is a dispute between ACC and a Customer (but an application for review has not been received), ACC may Refer the matter to the Supplier for the Supplier to provide Dispute Resolution Services. ACC will indicate whether the Referred Matter is Referred for the Supplier to provide Reviewer Administration Services only or a combination of Reviewer Administration Services and Dispute Resolution Services.