

Background

- A. WHA provide pre-employment medical assessments and on-site workplace health assessment services in Australia and New Zealand.
- B. The Client has completed WHA's Client Registration Form requesting WHA to provide pre-employment medical assessments of its potential employees and on-site workplace health assessment services of its employees by Professionals facilitated by WHA during the Term, after considering and agreeing to WHA's terms and conditions.
- C. WHA has accepted the Client's request for WHA to provide and facilitate the applicable services referred to in Background B during the Term, subject to the terms and conditions in this Agreement.

Operative Part

1. SERVICES

1.1. Provision

WHA agrees to provide the Services to the Client and to facilitate the provision of pre-employment medical assessment and related testing services of a Candidate to the Client by a WHA Partner Facility, External Service Provider or a Contractor which include, but are not limited to, the Services listed in the WHA Rates and Charges List as updated during the Term.

1.2 Appointments and bookings

WHA will provide a secure log-in to the Client to access WHA's online portal booking system for pre-employment medical assessments (WHA Portal). The WHA Portal will enable the Client to book and manage pre-employment medical assessment booking requests, appointments, and related testing services, monitor and track the status of a booking and access results during the Term. The WHA Portal also provides notification when results are available. Alternatively, the Client may contact WHA's dedicated customer service team to request a booking for a WHA Service. For all on-site bookings, including Drug and Alcohol, the Client is required to email onsitebookings@wha.net.au to request a booking.

1.3 Online Bookings

The Client is responsible for providing WHA with Candidate details including, but not limited to full name, date of birth, mobile phone number, postcode, and email address when making an online portal booking via the WHA Portal. The Client agrees to comply with WHA's terms and conditions on the use of the WHA Portal, as updated from time to time, including when using the WHA Portal to make a booking at a WHA Facility.

- a. When entering Candidate details in the WHA Portal, the Client is presented with the following options:
- The Client may use the WHA Portal to make an appointment or request WHA to make an appointment at a suitably located WHA Facility for assessment of the Candidate by a WHA Assessor.
 - The Client may elect to utilise the Candidate Dashboard whereby a Candidate's details are entered into the WHA Portal and a secure link is sent to the Candidate via email and SMS enabling the Candidate to securely access the Candidate Dashboard which is part of the WHA Portal. A Candidate can use the Candidate Dashboard to book their own appointment at a WHA Facility. If a WHA Facility is not available in the Candidate's preferred location, the Candidate can elect for WHA to make an appointment on behalf of the Candidate. A Client can turn off the Candidate Dashboard function in the WHA Portal at anytime.
- b. The Client can request WHA to make an appointment on the Candidate's behalf.
- If WHA or a Candidate makes the appointment requested by the Client it will notify details of this appointment to the Client and Candidate, and the Client may view the status of the booking at any time by logging into the WHA Portal.
 - When a WHA Facility is not available WHA will take reasonable steps to make a booking at an External Service Provider's Facility or a Contractor's Facility and will communicate the appointment details to both the Candidate and the Client using the contact details provided by the Client.
- #### 1.4 Booking Request by telephone or email to WHA's customer service team
- a. The Client is responsible for:
- providing WHA with Candidate details including, but not limited to full name, date of birth, mobile phone number, postcode, availability, and email address; and
 - ensuring the Candidate completes WHA's consent documents including the privacy consent document for the applicable type of appointment(s).
- b. The Client acknowledges if any Candidate's details and/or Candidate's consent documents are not completed and provided to WHA, WHA will not be able to provide any WHA Services for that Candidate.

c. WHA will, subject to availability, make an appointment at a suitably located WHA Facility for assessment of the Candidate by a WHA Assessor and will notify details of this appointment to the Client and Candidate using the contact details provided by the Client, and the Client may view the status of the booking by logging into the WHA Portal or by contacting WHA by phone and/or email.

1.5 Scope of Services

The Services provided by WHA include the services listed in the WHA Rates and Charges List as updated by WHA from time to time. Any other services offered by WHA or other type of services requested by the Client is subject to prior agreement with WHA on terms and conditions (including associated rates and charges) as agreed by the parties.

2. FEES

2.1 Client Creditworthiness

a. The Client agrees and consents to and authorises WHA to use the business details supplied by it to WHA to be used to conduct credit checks on the Client. Any decision by WHA to provide credit to the Client, whether made prior to WHA's acceptance of the Client's request for delivery of the Services or during the Term including to continue to provide credit during the Term, is at the sole discretion of WHA.

b. WHA may disclose any information provided by the Client in the course of a credit application, to a credit reporting agency for the purpose of obtaining a credit report on the Client. The Client agrees WHA may and consents to WHA obtaining personal information, credit information and other information relating to the Client from a credit reporting agency, credit provider or other party for the purposes of assessing the Client's credit worthiness prior to and during the Term.

2.2 WHA Services

The Client agrees to pay to WHA the applicable Service Fee for each Service provided or organised by WHA in accordance with the WHA Rates and Charges List or other agreement reached by the parties in accordance with clause 1.5. Any increases to WHA's Service Fees will be notified by WHA to the Client by providing no less than 30 days prior written notice to the Client. Each Service Fee is exclusive of GST unless otherwise stated in the WHA Rates and Charges List or notified by WHA. A surcharge may apply for Services provided during weekends, public holidays or outside of regular operating hours.

2.3 Other Medical Related Testing Services

Unless otherwise prior agreed in writing, WHA will charge the Client fees for the provision of each Professional Service facilitated by WHA including pathology related services provided.

2.4 Invoicing & GST

WHA will issue the Client with a tax invoice for the Services provided (plus applicable GST). Where the Client requires a purchase order, reference number or similar, to be included on invoices issued by WHA, the Client must notify WHA of those requirements in writing, at the time of making a booking request in the WHA Portal or when requesting a booking in writing or by phone to a WHA representative.

2.5 Payment Terms

The Client agrees to pay WHA's invoices within 14 days of the invoice date, unless otherwise agreed, using a payment method notified by WHA in the invoice including electronic funds transfer (EFT) and credit card.

2.6 Debt Recovery

a. The Client agrees to pay WHA's Service Fees and any other amounts payable to WHA when due in accordance with this Agreement. The Client acknowledges WHA may exercise its right to recover any monies owing to WHA and WHA may suspend delivery of its Services until WHA's Service Fees and any other amounts payable to WHA are paid to WHA in full and/or terminate this Agreement due to the Client's failure to pay its fees when due.

b. Where an External Service Provider is engaged by WHA to recover any outstanding debt owed by the Client to WHA, the Client agrees to pay WHA's costs, including (without limitation) administrative, debt collection fees paid to third parties and any legal and court fees incurred by WHA in relation to pursuing payment of the Service Fees and other amounts due to WHA.

2.7 Review of Service Fees

WHA may review its fees including the Service Fees in the WHA Rates and Charges List at any time during the Term including as at 1 July, each year; and will give the Client no less than 30 days prior written notice of any and all increases to the Service Fees.

3. CANCELLATION

3.1 Cancellation Fees

a. If any Services to be provided by WHA on a specific date (appointment date) are cancelled by the Client and/or Candidate, the applicable cancellation fees in this clause 3 apply, unless otherwise agreed, and the Client agrees to pay those cancellation fees to WHA:

b. In relation to In-facility Services:

- i. Where Services are cancelled or rescheduled by the Client or Candidate 24 hours or less before the appointment time, excluding weekends and public holidays in the location where the Services are to be provided, WHA will charge a cancellation fee equal to 75% of the Service Fee.
- ii. Where Services cannot be provided at the appointment time due to the failure of the Candidate to attend the scheduled appointment, WHA will charge a fail to attend fee equal to 100% of the Service Fee.
- iii. Where an appointment is made within 24 hours of the booking request by the Client or Candidate (using the Candidate Dashboard), and the appointment time is confirmed by the Candidate, the Client accepts responsibility for the confirmed booking, and if the booking is subsequently cancelled, agrees to pay WHA's cancellation fee equal to 75% of the Service Fee.
- iv. Where an appointment is made by WHA within 24 hours of the booking request, and the appointment time is not confirmed by the Candidate or Client, and the booking is subsequently cancelled, cancellation fees do not apply.

4. RECORDS

4.1 The Client acknowledges and agrees ownership of Candidate Records created as part of the Services performed by WHA or medical and other professionals engaged by WHA, including all medical assessment and related testing results, vest in WHA on creation, and remain with WHA.

4.2 WHA maintains records including Candidate Records in accordance with the WHA Privacy Policy and Privacy Statement, which is available at www.wha.net.au, www.wha.nz or upon written request to WHA.

5. CONTRACTORS

5.1 The Client authorises WHA to coordinate the delivery of Professional Services to the Client by the engagement of Contractors to deliver those Professional Services.

5.2 WHA agrees to take reasonable steps to check any WHA Partner Facility engaged by WHA to provide Professional Services have the required certificates at the time of the applicable appointments to provide those Professional Services to the Client, but do not warrant that they hold these qualifications, those Allied Health Practitioners responsible for the Services provided by them to the Client, and the Client acknowledges and agrees WHA is not liable for the performance of those Services.

6. WORKPLACE HEALTH & SAFETY

If Services (or any part of them) are performed at the Client's premises, worksite or other sites controlled or managed by the Client (On-site Services), the Client warrants to WHA and will ensure that those premises comply with all applicable Workplace Health and Safety laws and standards necessary to ensure a safe work environment for WHA's employees, Professionals and other representatives of WHA that provide On-site Services at those sites and/or visit the Client on-site including for Client relationship management appointments and/or business development appointments.

7. FORCE MAJEURE

7.1 Neither party will be liable for any delay or failure to perform its obligations under this Agreement, apart from payment obligations, as a result of a Force Majeure Event. The party affected by a Force Majeure Event must immediately notify the other party of any anticipated delay or impact on the delivery of the Services due to the Force Majeure Event. Subject to clause 7.2, the performance of the affected party's obligations under this Agreement will be suspended for the period of the delay, and any deadlines will be extended to provide for the period of the delay.

7.2 The parties agree to discuss, if a Force Majeure Event continues for longer than three months whether the Client still requires the suspended services to be provided and if so, whether WHA is able to perform those Services including the timing for delivery of the Services and on what terms and conditions including without limitation any different fees payable for the suspended services.

8. TERMINATION

8.1 Suspension or Termination by WHA

WHA may either suspend the performance of its obligations in this Agreement or immediately terminate this Agreement by giving written notice to the Client if the Client:

- a. fails on one or more occasions to pay any Service Fees payable to WHA by the due date in accordance with this Agreement;
- b. otherwise breaches any other term of this Agreement including without limitation the Client fails to provide access to its Premises or prepare its Premises to enable WHA to perform its On-site Services including medicals and other testing to be conducted On-site, and fails to remedy that breach within 21 days of receiving written notice from WHA to do so; or

c. is a natural person and becomes bankrupt or enters into any scheme of arrangement or any assignment or composition with or for the benefit of his or her creditors or any class of his or her creditors; or

d. is a corporation and enters into any scheme of arrangement or any assignment or composition with or for the benefit of its creditors or any class of its creditors generally, or has a liquidator, administrator, receiver or manager or similar functionary appointed in respect of its assets, or any action is taken for, or with the view to the liquidation (including provisional liquidation), winding up or dissolution without winding up of the Client, or in the reasonable opinion of WHA, is otherwise unable to pay its debts as they fall due.

8.2 Termination by the Client

The Client may terminate this Agreement on written notice to WHA if WHA has breached this Agreement and fails to remedy that breach within 21 days of receiving written notice from the Client including details of that breach or WHA does not satisfy the Client, acting reasonably, that there has not been a breach of this Agreement.

8.3 Termination Without Cause

a. This Agreement may be terminated at any time without cause by a party giving the other party 30 days' written notice.

b. If a party gives written notice to terminate this Agreement in accordance with clause 8.3a:

i. any appointments made prior to the date of termination continue regardless of whether the date of the appointment is after expiry of the 30 day termination notice period and must be performed in accordance with the terms and conditions of this Agreement and payment for those Services made by the Client to WHA in accordance with the terms and conditions of this Agreement and the Agreement continues until those Services have been provided and paid for, the Client unable to request WHA to provide any Services after the thirty day period expires; and

ii. no new appointments may be made for a date after expiry of the 30 day termination notice period.

c. In the event the Client requests WHA to provide Services after this Agreement has been terminated in accordance with clause 8.3a., provision of any of those requested Services is subject to the parties entering into a new agreement for delivery of those requested Services which may be on different terms and conditions to those in this Agreement.

8.4 Survival of Provisions

Termination of this Agreement will not affect those provisions of the Agreement expressed to operate or have effect after the date of termination and is without prejudice to any rights accrued by either party in respect of any breaches existing before termination.

9. GENERAL

9.1. Confidentiality

Each party must:

a. Keep any Confidential Information in respect of the other party, secret and confidential, except to the extent that the party is required by law or the Australian Securities Exchange or New Zealand Exchange, or other international recognised stock exchange that applies to that party to disclose that Confidential Information;

b. Take all reasonable and necessary precautions to maintain the secrecy of all of the other party's Confidential Information and prevent the disclosure of any of that Confidential Information; and

c. Subject to clause 9.1a., not disclose Confidential Information in respect of the other party to any third party without first obtaining the written consent of the other party.

9.2. Changes to Terms and Conditions

WHA may amend these terms and conditions from time to time, by written notice to the Client of no less than thirty days. The amendments including changes to the types of services provided by WHA, which may include Additional Tests or new services or the removal of particular Services, and changes to fees charged by WHA for a provision of a particular Service or Services listed in the WHA Rates and Charges List. The Client's order of any Services or acceptance of any Services after expiry of the notice period will constitute acceptance of the amended terms and conditions.

10. DEFINITIONS

In this Agreement:

"Additional Services" means new services or products including Additional Tests provided by WHA after the date of this Agreement notified by WHA to the Client and/or available from WHA's websites www.wha.net.au and www.wha.nz.

"Agreement" means this agreement between WHA and the Client.

"Allied Health Practitioner" means the independent allied health care practitioners engaged by WHA to provide Services to the Client from time to time.

“Assessor Training Program” means a comprehensive program delivered to WHA Assessors’ by WHA which includes WHA’s methods, practices and standards to perform WHA Services.

“Candidate” means a person who may be applying for a role with the Client, nominated by the Client, undertaking a pre-employment medical assessment or other test, with the individual’s consent, for assessment by a suitably located WHA facility, or Contractor’s medical facility as required, organised by WHA, or a current employee of the Client undertaking a test, for example a Drug and Alcohol test.

“Candidate Dashboard” means WHA’s online portal booking system for pre-employment medical assessments, accessible by a Candidate. The Candidate Dashboard enables a Candidate to book a pre-employment medical assessment at a WHA Facility or request WHA to make an appointment on the Candidate’s behalf.

“Candidate Records” means the records of Candidates created as part of any and all requests received by WHA from the Client to arrange the provision of Services and the delivery of those Services provided by WHA including the Professionals engaged by WHA to provide the Services and any information directly provided by a Candidate to WHA in relation to the provision of those Services.

“Client” means the legal entity who completed WHA’s Client Registration Form for delivery of the Services, which was considered and approved by WHA, subject to the terms and conditions in this Agreement.

“Client Registration Form” means the online client registration form available from WHA’s websites which includes WHA’s terms and conditions for delivery of WHA Services, completed by the Client with the Client’s full name, ACN (if applicable), address, business details and the estimated number of annual hires and submitted to WHA.

“Commencement Date” means the time and day WHA accepts the Client’s Registration Form.

“Confidential Information” means any information (whether in written, electronic, oral or any other form), whether disclosed or learnt by a party performing its obligations under this Agreement whether before or after the date of this Agreement, relating to a party or Contractor that is designated as, or would reasonably be considered to be, confidential in nature but does not include information that is disclosed pursuant to the order or requirement of a court, administrative agency or other governmental body, provided however that the party shall provide prompt notice to the other party and shall use reasonable efforts to prevent public disclosure of such information.

“Contractor” means a Professional, External Service Provider or any independently operated health care centre engaged by WHA, to deliver any or all of WHA’s pre-employment medical assessment and related testing services on WHA’s behalf to the Client.

“Doctors” means the independent medical practitioners engaged by WHA to provide Services to the Client from time to time.

“Dollars” means Australian or New Zealand dollars, subject to the appointment location.

“End Date” means five years from the Commencement Date unless terminated earlier in accordance with clause 8.

“External Service Provider” means an external service provider:

- a. where WHA does not have a WHA Facility, which is engaged by WHA to provide services including for example pre-employment health assessment services for or in relation to the Client which may as an example be at a remote location;
- b. engaged by WHA to provide additional services including for example for further assessment of positive drug results of a Candidate or other specialised tests; and/or
- c. engaged to conduct credit checks on the Client during the Term, and/or provide debt collection agencies services if the Client is in breach of WHA’s payment terms.

“Fails to Attend” means a Candidate who does not attend a scheduled appointment.

“Force Majeure Event” means any cause beyond the reasonable control of a party including (without limitation) strikes, industrial action, floods, fires, earthquake, riot, explosion, war, hostility, acts of government, military, civil or regulatory authority, epidemic, pandemic, change in any law or regulation, disruption or interruption to the supply of communications, internet, power or other utility.

“Health and Wellbeing Assessment” means an assessment which may include:

Anthropometric Measurements:

- a. Waist circumference, with option of weight and/or BMI scores;
- b. Blood Glucose:
 - i. Non-fasting;
 - ii. Blood Total Cholesterol Non-fasting;
- c. Cardiovascular Overview:
 - i. Blood pressure; and pulse;
 - d. Vision:
 - i. Testing near and distant vision;
 - e. Skin Examination:
 - i. brief examination to determine any possible skin concerns e.g. sun damage, suspicious moles, presents of eczema/dermatitis;
 - f. Pathological Testing:
 - i. referrals provided for further testing.

Additional tests may include diabetes screening tools, mental health questionnaires, sleep disorders questionnaires and general feedback and/or education on health and wellness.

“In-facility Services” means services delivered at a WHA facility, WHA Partner Facility or at an External Service Provider’s premises.

“On-site Services” means Services performed at the Client’s premises, worksite, or other site controlled or managed by the Client.

“Professionals” means Doctors, and Allied Health Practitioners (as applicable).

“Professional Services” means those services provided to the Client by Doctors and Allied Health Practitioners and facilitated by WHA under this Agreement.

“Regular Operating Hours” means the business hours of 7.00 am to 7.00 pm Monday to Friday, Australian Eastern Standard time, Australian Eastern Daylight Savings time, or New Zealand Standard time, or as otherwise agreed.

“Services” means the WHA Services provided to the Client and the Professional Services provided to the Client under this Agreement.

“Service Fee” means the service fee charged by WHA for provision of a particular Service, as listed in the WHA Rates and Charges List, and reviewed from time-to-time in accordance with clause 2.7.

“Term” means a period of five years commencing from the day and time WHA accepts the Client’s Registration Form completed by the Client unless terminated earlier in accordance with this Agreement.

“WHA” means Workplace Health Assessors Pty Ltd ABN 45 094 392 588 of Level 4, 15 Victoria Street Hobart Tasmania 7000.

“WHA Assessor” means an appropriately trained and qualified Allied Health Professional who has completed the Assessor Training Program.

“WHA Facility” means a WHA facility or a Contractor’s facility engaged by WHA when a WHA facility is not available at a suitable time or location for the Candidate.

“WHA Rates and Charges List” means the rates and charges list issued by WHA containing relevant fees and charges for the WHA Services provided by WHA to the Client and/or Professional Services of third parties as updated and notified by WHA to the Client during the Term. The WHA Rates and Charges List:

- a) available by contacting WHA; and
 - b) as updated on 1 July each year during the Term or on 30 days prior written notice from WHA.
- The WHA Rates and Charges List including the time period those rate and charges will apply.

“WHA Portal” has the meaning in clause 1.2.

“WHA Services” means pre-employment medical assessments, ongoing medicals where required including for high risk roles, regulatory certification requirements and related testing services including medicals, functional assessments, drug and alcohol screenings, work capacity, regulatory certification requirements assessment, auditory assessments, vision tests, general fitness tests, Health and Wellbeing programs, pathology, medical imagery, Additional Services and other specific services agreed in writing by WHA with the Client.