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Details of Filing

Document Lodged: Statement of Claim - Form 17 - Rule 8.06(1)(a)
File Number: VID1492/2018
File Title: ROBERT MUTCH v ISG MANAGEMENT PTY LTD
Registry: VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA



Dated: 18/06/2020 12:01:50 PM AEST

A handwritten signature in blue ink that reads 'Sia Lagos'.

Registrar

Important Information

As required by the Court's Rules, this Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

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Second Further Amended Statement of claim

No. 1492 of 2018

Federal Court of Australia
District Registry: Victoria
Division: Fair Work Division

Robert Mutch

Applicant

ISG Management Pty Ltd (ACN 142 916 970)

Respondent

Introduction

1. The Applicant brings this proceeding as a representative proceeding pursuant to Part IVA of the *Federal Court of Australia Act 1976* (Cth).
- 1A. The proceeding is commenced by the Applicant on his own behalf and on behalf of those persons who (**workers**):
 - a. in the period 2011 to the date of the filing of this Second Further Amended Statement of Claim, have provided services as telecommunications technicians ~~to the Respondent~~;
 - a1. received Tickets of Work issued pursuant to agreements to which the Respondent was a party under one or more of the 2013 Tickets of Work Agreement, 2015 Tickets of Work Agreement, and 2016 Tickets of Work Agreement (as defined below);

Particulars

- (i) Toughbooks were issued to workers, including pursuant to:
 - (A) clauses 6.1 and 9.1 of the 2013 Field Operations Manual;
 - (B) clauses 7.1, 9.3, and 9.3.1 of the 2015 Field Operations Manual;
and
 - (C) clause 8.2.1, 8.2.2 and 8.2.3 of the 2016 Field Operations Manual.

Filed on behalf of (name & role of party) Robert Mutch, Applicant
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(ii) Tickets of Work were issued to workers through use of the Toughbook, including pursuant to:

(A) clauses 4.4.1, 4.4.2, 9.3 and 9.4 of the 2013 Field Operations Manual;

(B) clauses 5.4, 5.4.1 and 9.4 of the 2015 Field Operations Manual

(C) clauses 6.6.1, 6.6.2 and 8.2.2 of the 2016 Field Operations Manual.

b. did not receive payments or benefits which would have been required to be made or provided had the workers been engaged by the Respondent as employees; and

c. have suffered loss by reason of the Respondent's conduct set out in this Statement of Claim.

2. As at the date of commencement of this proceeding, there are seven or more persons who have claims against the Respondent.

3. The Respondent (***ISG Management***) is a corporation and able to be sued.

Telstra / ISG Management Agreement

4. From around (at least) 2011, Telstra Corporation Ltd (***Telstra***) and ISG Management were parties to an agreement (***Telstra / ISG Management Agreement***).

5. Under the Telstra / ISG Management Agreement, ISG Management agreed to manage a workforce to provide, to Telstra, installation and maintenance services.

6. Under the Telstra / ISG Management Agreement, Telstra agreed to make payments to ISG Management.

Training Program and Australian Apprenticeships Access Program

7. From around 2009, ISG Management, in conjunction with other entities including Ai Group Apprentice, Trainee Centre and JB Hunter, engaged in training programs with the intent of training prospective telecommunications workers to provide services to ISG Management (***Training Programs***).

8. From around (at least) 2011 to 30 June 2014, some of the prospective telecommunications workers participated in the Training Programs under the "***Australian Apprenticeships Access Program***" (***Apprenticeships Program***).

8A. From around October 2013 to December 2013, the Applicant participated in the Apprenticeship Program.

9. Under the Apprenticeships Program:

- a. A participant was eligible to participate if he or she met the residency status, was registered for employment assistance, and met one of the following criteria:
- i. unemployed and registered with Centrelink as unemployed for at least three months;
 - ii. homeless;
 - iii. have a disability;
 - iv. a sole parent receiving Parenting Payment (with, from 1 January 2013, recipients moving to Newstart Allowance);
 - v. an early school leaver who has not completed either Year 10, 11, or 12 of school;
 - vi. an 'at risk' Year 12 school leaver;
 - vii. an Indigenous Australian;
 - viii. an Australian-born descendant of a South Sea Islander;
 - ix. a self-disclosed ex-offender;
 - x. a mature-aged job seeker aged 45 years and over; and
 - xi. a person who has completed a Language, Literacy and Numeracy Program, funded by the Department of Industry, Innovation, Science, Research and Tertiary Education (**DIIRSTE**).

Particulars

This aspect of the Apprenticeships Program is described at section 3.3.1, p 10-11, of the Australian Apprenticeships Access Program Review, Final Report, by Ernst & Young, dated 8 February 2013 (**Ernst & Young Report**), downloaded from "<https://www.education.gov.au/australian-apprenticeships-access-programme>".

- b. There would be an initial assessment by a "referring agency", namely Centrelink, Job Servicers Australia Providers, Youth Connections Providers, Disability Employments Services Providers, and Community Development Employment Program Providers.

Particulars

See section 3.3.3, p 12, of the Ernst & Young Report.

- c. DIIRSTE contracts Access Program Brokers to deliver Access Program services on behalf of the Australian Government in Regions on a State/Territory basis as identified in their contracts.

Particulars

See section 3.3.4, p 12, of the Ernst & Young Report.

- d. Access Program Brokers received an amount of money based on the number of commencements, training completions, outcomes achieved and the participant's Access Program Participant Category. Payments are set based on milestone type. Access Program Brokers receive payments for the following achievements:
 - i. commencements where a participant attends for five consecutive days;
 - ii. completion of training; and
 - iii. achievement of an outcome.

Particulars

See section 3.3.5, p 12-13, of the Ernst & Young Report.

- 10. At the successful completion of the Training Programs, the participants were conferred with a Certificate III in Telecommunications Technology.
- 10A. By reason of the fact that participants in the Apprenticeships Program had one or more of the characteristics in paragraph 9(a) above, each such participant (including the Applicant) was:
 - (a) vulnerable, when compared to ISG Management, so far as his or her ability to understand:
 - (i) written contracts;
 - (ii) the legal distinction between employees and independent contractors;
 - (iii) the rights conferred by the *Fair Work Act* on employees;
 - (iv) the rights conferred by the *Telecommunications Services Award 2010* on employees.
 - (b) not in any reasonable position to negotiate:
 - (i) the terms of written contracts;
 - (ii) the structure mandated by ISG Management in respect of performing telecommunications services – namely, that contracts be between ISG Management and a corporation, not the participant in the Apprenticeships Program as a natural person;
 - (iii) the payment of an amount that would reflect benefits that would be payable in the event they were employees under the *Fair Work Act* or the *Telecommunications Services Award 2010*.

- 10B. ISG Management knew that participants in the Apprenticeship Program had one or more of the characteristics referred to in paragraph 9(a) above.

Particulars

- (i) ISG Management's knowledge is to be inferred by reason of the fact that ISG Management is a sophisticated company, which would have had detailed knowledge of the nature of the arrangements it entered into with Government departments.
- (ii) The website at "<http://www.tandemcorp.com/about/#who-we-are>" states: "2013... ISGM partners with AiGTS to facilitate a traineeship program for 400 long term unemployed...".

- 10C. ISG Management knew that participants in the Apprenticeship Program:

- (a) were vulnerable as referred to in paragraph 10A(a) above;
- (b) not in any reasonable position to negotiate the matters referred to in paragraph 10A(b) above.

Particulars

ISG Management's knowledge is to be inferred from the fact that participants in the Apprenticeships Program had one or more of the characteristics in paragraph 9(a) above, which (as pleaded in paragraph 10B) was known by ISG Management.

~~2011 to 2013 Agreements~~ Tickets of Work Agreement

11. From around (at least) 2011 to around 2013, ISG Management entered into agreements with workers entitled "*Tickets of Work Standing Offer Agreement*" (2011 *Tickets of Work Agreement* to 2013 Agreements).

Particulars

~~At the time of filing this pleading, the Applicant does not have copies of the Agreements, but presently understands they were wholly in writing. Further particulars may be supplied after discovery.~~

- (i) The 2011 Tickets of Work Agreement was in writing.
- (ii) In respect of the proposition that the 2011 Tickets of Work Agreement was entered into as between the Respondent and the workers (as defined in paragraph 1A), the Applicant repeats particular (ii) of paragraph 13 below (save that it should be read as referring to the 2011 Tickets of Work Agreement).

12. Under the 2011 to 2013 Agreements, the workers were purportedly engaged as independent contractors. The 2011 Tickets of Work Agreement was, in substance, the same as the 2013 Tickets of Work Agreement, save that:
- a. the 2013 Tickets of Work Agreement contained a new clause 15.3 (concerned with proportionate liability); and
 - b. the 2013 Tickets of Work Agreement contained a new Schedule 3 (concerned with State specific legislation).

2013 Tickets of Work Agreement

13. On around 1 October 2013, ISG Management entered into agreements with workers, including the Applicant, entitled "*Tickets of Work Standing Offer Agreement*" (**2013 Tickets of Work Agreement**).

Particulars

- (i) The 2013 Tickets of Work Agreement was in writing.
- (ii) That the 2013 Tickets of Work Agreement was entered into as between the Respondent and the workers (as defined in paragraph 1A), is a legal conclusion that follows after an examination of the whole of the relationship between the parties, including:
 - (A) the workers, individually, received Tickets of Work from the Respondent;
 - (B) the workers, individually, provided telecommunications services to the Respondent;
 - (C) Toughbooks were issued to workers, including pursuant to the clauses of the 2013 Field Operations Manual, 2015 Field Operations Manual, and 2016 Field Operations Manual referred to in the particulars to [1A](a1) above:
 - (D) Tickets of Work were issued to workers through use of the Toughbook, including pursuant to the clauses of the 2013 Field Operations Manual, 2015 Field Operations Manual, and 2016 Field Operations Manual referred to in the particulars to [1A](a1) above:
 - (E) the matters pleaded in paragraph 219 below;
 - (F) the matters pleaded in paragraph 220 below;
 - (G) the matters pleaded in paragraph 221 below;
 - (H) the matters pleaded in paragraph 222 below;
 - (I) the matters pleaded in paragraph 223 below;

- (J) the matters pleaded in paragraph 224 below;
- (K) the matters pleaded in paragraph 225 below;
- (L) the matters pleaded in paragraph 226 below;
- (M) the matters pleaded in paragraph 227 below.

14. Under clause 2.1 of the 2013 Tickets of Work Agreement, the worker would carry out the Services on and from the Services Commencement Date until the expiry or termination of the 2013 Tickets of Work Agreement and otherwise in accordance with (a) the 2013 Tickets of Work Agreement and (b) the terms of any relevant ticket of work or similar ordering document or schedule issued by ISGM (defined as "*Ticket of Work*").
15. In respect of clause 2.2 of the 2013 Tickets of Work Agreement:
 - a. Under clause 2.2(a), from time to time during the Term, the worker may be issued with one or more Tickets of Work requesting the worker to provide Services at one or more Sites.
 - b. Under clause 2.2(b), each Ticket of Work will be communicated to the worker via the Toughbook provided to the worker by Telstra (unless ISG Management has directed the worker that it will communicate Tickets of Work by another means).
 - c. Under clause 2.2(c), the worker must use reasonable endeavours to accept each Ticket of Work that the worker receives.
 - d. Under clause 2.2(d), if the worker is unable to accept a Ticket of Work, the worker must give notice of the worker's reasons for the non-acceptance via that Toughbook (unless ISGM has directed the worker to give notice by some other means) as soon as possible after receiving the Ticket of Work and in any case within the time frame directed by ISGM for notification of non-acceptance generally.
 - e. Under clause 2.2(e), if the worker rejects a Ticket of Work, the worker must notify the ISGM Team Manager of the worker's reasons for rejecting the Ticket of Work.
 - f. Under clause 2.2(g), the worker will be taken to have accepted a Ticket of Work unless the worker notifies ISG Management in accordance with clause 2.2(d) and (e) that the worker does not accept the Ticket of Work.
 - g. Under clause 2.2(i), the worker acknowledges and agrees that Tickets of Work will be issued for Work to be performed by the worker inside of and outside of standard business hours and Business Days, including on weekends and public

holidays, and the worker must ensure that the worker's Representatives will be available to perform the Work at those times.

16. Under clause 2.3(d) of the 2013 Tickets of Work Agreement, subject to clause 2.3(e), the worker may provide similar services and goods to any other person but the worker must notify ISG Management in writing before the worker does agree to provide similar services or goods to anyone else to an extent or in a manner that does or may conflict with the worker's availability to provide Services to ISG Management under the 2013 Tickets of Work Agreement.
17. Under clause 2.4 of the 2013 Tickets of Work Agreement, when the worker accepts (or is deemed to have accepted) a Ticket of Work in accordance with clause 2.2, a binding contract between ISG Management and the worker will arise for the performance of and payment for the Work set out in the Ticket of Work comprising the terms set out in the Ticket of Work and the terms of the 2013 Tickets of Work Agreement.
18. Under clause 3 of the 2013 Tickets of Work Agreement:
 - a. ISG Management will provide training to the worker from time to time.
 - b. The worker must attend training provided from time to time by ISG Management.
19. Under clause 4.1 of the 2013 Tickets of Work Agreement, the worker must carry out the Work under each Ticket of Work in accordance with section 4.1.2 of Schedule 2, including all things incidental to the Work and all things necessary to Complete the Work, in accordance with the requirements of Schedule 2.
20. Under clause 4.3 of the 2013 Tickets of Work Agreement, the worker must perform the Services:
 - a. so that when the Services are completed the result will be of high quality, free from defects and suitable and able to be used for the purposes for which it is intended;
 - b. diligently, in a proper and tradesman like manner using best industry practices and to a standard reasonably expected of a highly skilled, competent and experienced person who performs work of a similar nature to the Services;
 - c. with due care and skill;
 - d. so that all Work complies with the applicable KPIs;
 - e. in compliance with all Legislative Requirements;
 - f. to the reasonable satisfaction of ISG Management; and

- g. in compliance with all safety and environmental requirements as set out in Schedule 2.
- 21. Under clause 4.4 of the 2013 Tickets of Work Agreement:
 - a. The worker must not subcontract any Services except with the prior written consent of ISG Management (which will not be unreasonably withheld or delayed).
 - b. The worker may delegate the Services to the worker's employees without the prior written consent of ISG Management.
 - c. The worker will be liable for all acts and omissions of the worker's Representatives and subcontractors as if they were the worker's acts or omissions.
- 22. Under clause 4.5 of the 2013 Tickets of Work Agreement, in carrying out the work, the worker must comply with the field quality assurance requirements in accordance with section 10.35 of Schedule 2.
- 23. Under clause 4.6 of the 2013 Tickets of Work Agreement:
 - a. ISG Management may issue reasonable directions relating to any aspect of the performance of the Services (cl 4.6(b)).
 - b. The worker must comply with all reasonable directions given by ISG Management in accordance with the 2013 Tickets of Work Agreement within the time specified in the direction or, if no time is specified, then as soon as practicable (and directions may be given orally but, if the worker requires it, must be confirmed by ISG Management in writing) (cl 4.6(c)).
 - c. A direction given by ISG Management does not relieve the worker from, or diminish, any obligation or liability of the worker under or in connection with this Agreement (cl 4.6(d)).
 - d. If a direction given by ISG Management conflicts with the requirements of the 2013 Tickets of Work Agreement, the worker must inform ISG Management orally and follow up in writing within 48 hours, giving details of why the direction is contrary to the 2013 Tickets of Work Agreement, before complying with the direction (cl 4.6(e)).
 - e. The worker must, and must ensure the worker's Representatives, co-operate, assist and provide information as reasonably required by ISG Management in relation to the Services or to assist ISG Management satisfy its obligations

specified in the Ticket of Work for the Services, under this Agreement or otherwise in relation to the Services (cl 4.6(f)).

24. Under clause 4.7, the worker must keep ISG Management informed of the progress of the Services via the Toughbook (or other means notified by ISG Management) including by promptly notifying ISG Management of delays and events which are likely to cause delays and any failure or likely failure to Complete any Services by the due time of Completion.
25. In respect of clause 4.8:
 - a. Under clause 4.8(b), the worker must at each Site:
 - i. take all measures necessary to protect people and property;
 - ii. take all reasonable and practicable measures to prevent or minimise any environmental harm;
 - iii. avoid unnecessary interference with the passage of people and vehicles;
and
 - iv. prevent nuisance and unreasonable noise and interference.
 - b. Under clause 4.8(c), the worker must in respect of any Site or Services:
 - i. comply with all directions or guidelines given by ISG Management or any other person as directed by ISG Management for the Services in relation to environmental and health and safety issues;
 - ii. comply with, and have in place adequate and appropriate systems for compliance with, all environmental and occupational health and safety legislation, regulations, codes of practice and standards applicable to the Site or Services; and
 - iii. report to ISG Management in writing all incidents, accidents, near-misses and hazards at the Site or relating to the Services or any other event or circumstance that occurs or becomes apparent whilst performing the Services that may affect the safety of any person or property.
 - c. Under clause 4.8(d), the worker must demonstrate compliance with the requirements in clause 4.8(b) and (c) to the satisfaction of ISG Management, including by regularly (and whenever requested by ISG Management) providing evidence of measures taken to achieve compliance with them.
 - d. Under clause 4.8(e), the worker must not do, or omit to do, anything which causes or contributes to any breach by ISG Management of any provisions of any applicable occupational health and safety legislation, regulations, codes of

practice and standards, and must take all steps as are practicable to assist ISG Management in complying with these provisions.

- e. Under clause 4.8(f), the worker must co-operate and co-ordinate with all other persons working at each Site.

26. In respect of clause 7.2:

- a. Under clause 7.2(a), the worker must comply with the requirements set out in Schedule 2 of the 2013 Tickets of Work Agreement and must:
 - i. maintain a connected and working e-mail address provided to the worker by ISG Management;
 - ii. without limiting the other terms of the 2013 Tickets of Work Agreement, ensure that the worker's Representatives wear appropriate safety apparel and utilise the appropriate personal safety equipment at all times and in accordance with section 4.2.1 of Schedule 2;
 - iii. have and maintain a connected and working mobile telephone;
 - iv. have and maintain all tools, equipment and machinery required to perform the Services (other than any tools, equipment or machinery required to be provided by ISG Management) and make sure that all tools, equipment and machinery used to perform the Services are maintained in good order and suitable for the performance of the Services for which they are intended;
 - v. permit ISG Management, prior to the worker being permitted to commence the Services, to inspect certifications, registrations and licences that the worker requires in order to perform the worker's obligations under the 2013 Tickets of Work Agreement;
 - vi. ensure that all electrical items used, incorporated or installed in connection with any Services are tested and tagged in accordance with the applicable Australian standards;
 - vii. ensure that the worker's vehicles are well kept, clean and tidy and free from accidental damage caused or contributed to by the worker; and
 - viii. ensure that vehicle registration, equipment certification and licences used in the performance of Services are maintained at all times during the Term.

- b. Under clause 7.2(b), the worker must ensure that the worker's Representatives wear identification when performing the Services and any activity in connection with the Services, and at no other times.
- c. Under clause 7.2(c), the worker must comply with the ISGM Behaviour Policies as set out in sections 10.23, 10.24, 10.25 and 10.26 of Schedule 2 and ISG Management's other requirements as notified to the worker from time to time.
- d. Under clause 7.2(d), on Completion of Work, the worker must ensure that all rubbish generated as a result of the Services, surplus material, temporary works and construction plant is immediately removed from the Site.
- e. Under clause 7.2(e), the worker must not service or wash any tools, equipment or machines in a street where it may be a source of annoyance to the public or cause damage to roads, drains, pavements or nature strips.
- f. Under clause 7.2(f), the worker must arrange storage of the worker's own vehicles, tools, machinery and equipment in such a manner that they do not create a nuisance or annoyance to the public. The worker must be particularly careful when parking at a Site that the worker has approval from the Site manager or customer. The costs of complying with this clause 7.2(f) will be the worker's responsibility.
- g. Under clause 7.2(g), the worker will be responsible for the security of the worker's own vehicles, tools, machinery and equipment.
- h. Under clause 7.2(h), when providing the Services, the worker must carry:
 - i. a letter of introduction from Telstra confirming that the nominated person is authorised to perform the specified work on behalf of Telstra; and
 - ii. a letter of introduction from ISG Management, confirming that the nominated person is a subcontractor of ISG Management and is authorised and trained to perform the Services requested (which must be returned to ISG Management in the event of termination of the 2013 Tickets of Work Agreement by ISG Management or if the worker otherwise ceases involvement in the provision of the Services).
- i. Under clause 7.2(i), the worker must provide appropriate traffic control structures, resources and associated equipment around a Services site.
- j. Under clause 7.2(j), the worker consents to ISG Management carrying out such checks with the police of any relevant jurisdiction as ISG Management may require in respect of the worker and the worker's Representatives and will procure the signing of all documents and the doing of all other things that are

necessary to allow ISG Management to carry out and obtain the results of such checks.

27. In respect of clause 7.3:

- a. Under clause 7.3(a), the worker must, and must ensure that the worker's Representatives:
 - i. comply with the uniform requirements of section 10.11 of Schedule 2 at all times;
 - ii. comply with the vehicles branding requirements in accordance with section 10.11 of Schedule 2.
- b. Under clause 7.3(b), uniforms and vehicle co-branding elements will be replaced by Telstra as and when required where such replacement is necessary as a result of fair wear and tear or any other circumstance (as reasonably determined by Telstra).

28. In respect of clause 8:

- a. Under clause 8(a), the worker acknowledges and agrees that ISG Management's ability to comply with its obligations under or in connection with the Head Agreement, including its ability to achieve or comply with Key Performance Indicators and procedures and processes under it, may be dependent on the worker's performance under the 2013 Tickets of Work Agreement.
- b. Under clause 8(b), in performing the Services, the worker must achieve or comply with:
 - i. each KPI specified in the Ticket of Work for the relevant Services;
 - ii. each process specified in the 2013 Tickets of Work Agreement; and
 - iii. the Performance Standards, and any performance standard or level necessary to achieve or comply with a KPI or procedure or process as set out in Schedule 2 to the 2013 Tickets of Work Agreement.

29. In respect of clause 9.2:

- a. Under clause 9.2(a), ISG Management will establish and operate the governance forums and meetings to comply with the requirement of the 2013 Tickets of Work Agreement.
- b. Under clause 9.2(b), the worker must attend such meetings and attendance may be required via scheduled meetings within designated facilities and/or via an organised conference call.

30. In respect of clause 9.3:

- a. Under clause 9.3(d), in accessing any place at which Services will be carried out (“*Site*”), the worker must:
 - i. at all times comply with all Legislative Requirements, clause 9.3 and any agreements, codes or practice or memoranda of understanding entered into by ISG Management with third parties, as they are updated from time to time and notified to the worker; and
 - ii. only use and control such a Site as necessary to enable the worker to perform the 2013 Tickets of Work Agreement and not for camping, residential purposes or for any purpose not connected with the performance of the 2013 Tickets of Work Agreement , unless approved by ISG Management.

31. In respect of clause 9.4:

- a. Under clause 9.4(b)(iii), the worker must, at the worker’s cost, comply with the National Code of Practice for the Construction Industry (“*Code*”) and the Australian Government Implementation Guidelines for the Code (“*Guidelines*”).
- b. Under clause 9.4(b)(v), the worker must, at the worker’s cost:
 - i. provide all information and assistance, and take action, as reasonably required by ISG Management, in order for ISG Management to comply with the Code and Guidelines;
 - ii. require that the workers and the worker’s Representatives and the worker’s Related Bodies Corporate provide ISG Management and the Commonwealth or any person authorised by ISG Management and the Commonwealth with access to:
 1. inspect any work, material, machinery, appliance, article or facility;
 2. inspect and copy any records relevant to the Services the subject of the 2013 Tickets of Work Agreement; and
 3. interview any person,as is necessary to demonstrate the worker’s compliance with the Code and Guidelines.
 - iii. at all times maintain adequate records of the compliance by the worker and the worker’s Related Bodies Corporate, Representatives and material suppliers with the Code and the Guidelines and, where requested by ISG

Management, make those records available to ISG Management to inspect and copy.

32. Under clause 10.1, the worker must:
 - a. commence Work as required under the applicable Ticket of Work;
 - b. bring the Work to Completion by the Scheduled Time for Completion of the Work;
 - c. otherwise proceed with the Work with due expedition and without delay; and
 - d. comply with the scheduling requirements set out in section 5 of Schedule 2.
33. Under clause 10.2, the worker must notify ISG Management through the applicable work management systems of the Completion of any Work promptly after the Work has reached Completion by:
 - a. giving notice of the Completion via the Toughbook; or
 - b. where required by ISG Management, utilising other approved communication methods; and
 - c. comply with the scheduling requirements set out in section 5 of Schedule 2.
34. Under clause 11.1, subject to clause 11, and in accordance with the processes detailed in section 10.17 of Schedule 2, after any Work specified in a Ticket of Work has reached Completion:
 - a. the worker is entitled to be paid by ISG Management, for the performance of the Work and all of the worker's obligations in respect of the Work under or in connection with the 2013 Tickets of Work Agreement, the amount ascertained by applying the Rates to the applicable Work properly performed; and
 - b. the amount is payable within 7 days after the date on which the applicable tax invoice is given by ISG Management to the worker and accepted by the worker in accordance with clause 11.2 (or such other period as the parties may agree in writing).
35. In respect of clause 11.2:
 - a. Under clause 11.2(a), after Completion of any Work or Services, ISG Management will prepare and give to the worker a recipient created tax invoice ("RCTI") for the amount payable for the Services.
 - b. Under clause 11.2(b), ISG Management will aggregate and issue RCTIs to the worker on a weekly basis.
 - c. Under clause 11.2(c), where the worker receives a RCTI from ISG Management for an amount payable for any Work or Services, the worker must notify ISG

Management whether or not the worker accepts the amount set out in the RCTI within 24 hours of receiving the RCTI.

- d. Under clause 11.2(d), the worker must comply with the RCTI process as set out in section 10.18 of Schedule 2.
 - e. Under clause 11.2(e), if the worker disputes the details of the RCTI, a RCTI dispute exists and the worker must follow the RCTI dispute resolution process set out in section 10.19 of Schedule 2.
 - f. Under clause 11.2(f), at all relevant times, the worker must comply with the payment processes set out in clause 11.
 - g. Under clause 11.2(g), the worker must monitor and validate the worker's activities in respect of the Services via the Toughbook or via other methods specified by ISG Management from time to time. If the worker does not comply with these requirements, ISG Management may:
 - i. elect to process the RCTI as though the worker has approved the RCTI in accordance with section 10.19 of Schedule 2; or
 - ii. withhold payments to the worker until such time as the worker complies with the RCTI process in accordance with section 10.19 of Schedule 2.
 - h. Under clause 11.2(h), if the worker fails to comply with the RCTI process set out in clause 11, the Team Manager will notify the worker of ISG Management's decision under clause 11.2(g)(i) and 11.2(g)(ii) and the next steps for resolution.
36. Under clause 11.3, a payment made in relation to the 2013 Tickets of Work Agreement was a payment on account only and will not be evidence of the value of any work or an admission of liability or an admission that any work is satisfactory.
37. In respect of clause 11.4:
- a. Under clause 11.4(a), the maximum rate for calculating the amounts which ISG Management will pay the worker for the Services are set out in section 10.29 of Schedule 2 (*the Schedule of Rates or SOR*).
 - b. Under clause 11.4(b), the worker agrees that the SOR contains items that the worker may not be able to claim, at this point in time, and the worker can only make a claim in respect of any Ticket of Work which is identified and noted in the Reimbursable Rates set out in section 10.29 of Schedule 2.
 - c. Under clause 11.4(c), for the avoidance of doubt, the worker can only claim for work using the rates as detailed in the Reimbursable Rate Schedule in section 10.29 of Schedule 2.

38. In respect of clause 11.5:
- a. Under clause 11.5(a), ISG Management may adjust any rate within the SOR at its discretion to reflect any rate adjustment directed by Telstra under the Head Contract. ISG Management will provide written notice to the worker of any adjustment in Rates in a rate adjustment notice. ISG Management will use reasonable endeavours to provide the rate adjustment notice at least 10 Business Days prior to any adjustment of the Rates taking place. Once the rate adjustment notice period has expired, the change in the Rates will be in force and the corresponding adjusted SOR will apply.
 - b. Under clause 11.5(b), without limiting clause 11.5(a), as soon as reasonably practicable following the expiry of each Contract Year or at such other time as ISG Management considers reasonable under clause 11.5(c), ISG Management will review the SOR. Where ISG Management has conducted an audit and taken into account the results of this audit including prevailing market conditions, ISG Management may make adjustments to the SOR with the consent of the worker, such consent not to be unreasonably withheld or delayed. Any rate adjustment will follow the process set out in clause 11.5(a).
 - c. Under clause 11.5(c), where ISG Management reasonably considers that relevant market conditions require an urgent and expedited review of the SOR before the end of a Contract Year, ISG Management may require the worker to provide additional information to support any proposed adjustment under clause 11.5(b). The worker will provide this information to ISG Management promptly when requested. The cost of providing the additional supporting information will be borne by the worker, unless otherwise notified in writing by ISG Management.
 - d. Under clause 11.5(d), nothing in clause 11.5 requires ISG Management to change the SOR.
39. Under clause 13, the worker represents and warrants to ISG Management as at the date of the 2013 Tickets of Work Agreement and at all times during the Term, that:
- a. the worker is incorporated as a proprietary company and has an Australian Business Number;
 - b. the worker is entitled to, and has the right and power to, supply the Services to ISG Management;
 - c. all Services will comply with Schedule 2 and the 2013 Tickets of Work Agreement;

- d. the worker's Representatives will at all times be suitably qualified and experienced and will, together with the worker, exercise due care and skill in performing the 2013 Tickets of Work Agreement;
 - e. to the best of the worker's knowledge, a Conflict of Interest or risk of Conflict of Interest does not exist and is not likely to arise in relation to the performance of the worker's obligations under the 2013 Tickets of Work Agreement;
 - f. the worker will, and will make sure that the worker's Representatives, comply with all Relevant Laws throughout the Term;
 - g. the Services and all Work will not infringe the rights, including any Intellectual Property Rights of any person;
 - h. the worker fully complies, and has always fully complied, and will continue to fully comply with the worker's statutory employee obligations including, without limitation, in relation to workers compensation, payroll tax, PAYG tax instalments and superannuation contributions; and
 - i. the worker is not aware of anything which would prevent the worker from obtaining, or being entitled to make a claim under, an insurance policy required under the 2013 Tickets of Work Agreement.
40. In respect of clause 17:
- a. Under clause 17.1(a), the worker must, as a minimum, comply with all Legal Requirements related to health and safety and the environment which are in any way applicable to the performance or non-performance of any of the worker's obligations under the 2013 Tickets of Work Agreement, including the HSE requirements set out in section 10.33 of Schedule 2.
 - b. Under clause 17.1(b), the worker must ensure that the worker's Representatives are at all times appropriately inducted, trained and supervised in relation to (i) the risks associated with the supply of the Services; (ii) the procedures they need to follow to manage those risks and (iii) their HSE obligations, including the Relevant Laws.
 - c. Under clause 17.3, without limiting any other audit or inspection rights granted to ISG Management under the 2013 Tickets of Work Agreement, the worker must permit ISG Management, Telstra and their respective Representatives to enter any Site or worker vehicle at any reasonable time, without notice, to review, inspect, audit compliance or otherwise observe the quality systems, HSE management systems, work practices and procedures applicable to the worker's performance of the 2013 Tickets of Work Agreement.

41. In respect of clause 18:

- a. Under clause 18.1, during the term of the 2013 Tickets of Work Agreement and for a period of 7 years after the expiry or termination of the 2013 Tickets of Work Agreement, the worker must:
 - i. keep full and proper books of accounts and records relating to the performance of Services obligations under the 2013 Tickets of Work Agreement, including any relevant information necessary to validate such accounts and records ("*Records*"). Such Records must include complete and accurate details of amounts paid and payable to the worker, provided that, for clarification, the scope of Records must be sufficient to enable ISG Management or its Representatives to confirm the extent to which the worker has complied with the worker's obligations under this Agreement;
 - ii. at ISG Management's request, produce for inspection or provide ISG Management with a copy of the Records;
 - iii. give ISG Management and its Representatives access, and use of, the facilities, data, records, reports and information relating to the Services and any other aspects of the 2013 Tickets of Work Agreement;
 - iv. allow ISG Management and its Representatives entry to any premises occupied by the worker within 24 hours written notice at all reasonable times to inspect, audit and take copies of the Records and otherwise inspect the worker's performance of the worker's obligations under the 2013 Tickets of Work Agreement, customer services procedures and operational processes including Telstra Issue Material requirements and verification of any amounts for which the worker is liable under the 2013 Tickets of Work Agreement;
 - v. comply with any reasonable directions of ISG Management relating to ISG Management's or any Government Authority's access to and inspection of premises, data, records, accounts, financial material and information in the possession or under the control of the worker and/or the worker's Representatives and which relate to the performance of the Services; and
 - vi. allow any third party nominated by ISG Management and its Representatives and any relevant Government Authority access to the Records for purposes connected with the 2013 Tickets of Work Agreement or the Head Agreement.

- b. Under clause 18.1(b), without limiting any other obligation of the worker with respect to return of Confidential Information or Telstra Data, at least 60 days prior to the expiry of the seven year period referred to in clause 18.1(a), the worker must provide to ISG Management a detailed register of all Records. ISG Management may subsequently request a copy of any Records as required by ISG Management in order to fulfil its obligations to Telstra and the worker must comply with any such request within 5 Business Days of such request. The worker must not delete or destroy any Records prior to receiving written confirmation from ISG Management that the worker has satisfactorily complied with the worker's obligations under clause 18.1(b) (confirmation of which will not be unreasonably withheld or delayed).
- c. Under clause 18.2(a), each party will bear its own internal costs, and subject to clause 18.2(b), ISG Management will be responsible for meeting the costs of any third party auditor, nominee or similar arising from any exercise by ISG Management of its rights under clause 18.
- d. Under clause 18.2(b), where the results of any exercise by ISG Management of its rights under this clause establishes that the worker has overcharged ISG Management or has identified a material breach of the 2013 Tickets of Work Agreement by the worker (excluding, for clarification, any failure to meet any KPIs), the worker will be responsible for all costs of ISG Management arising from the audit, review of records or similar, including third party auditor or nominee costs (and, where it has been established that the worker has overcharged ISG Management, the worker must immediately pay those costs to ISG Management as well as the amount of the overcharge).
- e. Under clause 18.3(a), the worker acknowledges and agrees that ISG Management and Telstra may monitor by remote electronic access the use by the worker of the Toughbook in the provision of the Services and the worker hereby consents to, and must provide ISG Management with all reasonable assistance to establish and facilitate, such remote access.
- f. Under clause 18.3(b), ISG Management and Telstra may monitor the worker's usage of the Toughbook and may provide the worker with details of the worker's electronic usage, whether this usage is covered or not covered under the usage policy set out in section 9.3 and 9.4 of Schedule 2.
- g. Under clause 18.4, to the extent permitted by applicable laws, the worker gives (and must procure that the worker's Representatives give) all approvals and consents required to be given by applicable laws to give effect to ISG

Management's audit, access or inspection rights contained in the 2013 Tickets of Work Agreement.

42. In respect of clause 20:

- a. Under clause 20.1(a), each party must, during the term and after the expiry or termination of the 2013 Tickets of Work Agreement:
 - i. take all action reasonably necessary to maintain the confidentiality of the other party's Confidential Information;
 - ii. not disclose the other party's Confidential Information to any person except as permitted under clause 20.2; and
 - iii. use or reproduce the other party's Confidential Information only for the purposes of the 2013 Tickets of Work Agreement.
- b. Under clause 20.1(b), the worker acknowledges that ISG Management may from time to time specify certain requirements in addition to those requirements set out in clause 20.1(a) in respect of access to and use of Confidential Information of any Government Authority or Confidential Information of Telstra. This may include a requirement for recipients of such Confidential Information to provide written undertakings to ISG Management, Telstra, or any Government Authority. Where ISG Management specifies such additional requirements, the worker must comply with those additional requirements with respect to access to and use of that Confidential Information.
- c. Under clause 20.2(b), ISG Management may disclose Confidential Information of the worker to its customers where required for the purpose of re-selling Services, to ensure its customers receive the benefit of the Services, or in using Services to provide other goods or services to them or to comply with its agreement with the customer (including the Head Contract).

43. In respect of clause 21:

- a. Under clause 21.1, the worker must ensure that in performing the 2013 Tickets of Work Agreement the worker fully complies with all Legislative Requirements and ISG Management Policies that apply to the worker or the Services being performed by the worker, including by providing appropriate training to the worker's Representatives and implementing compliance and risk management procedures.
- b. Under clause 21.3, ISG Management may, prior to or at any time during the term of the 2013 Tickets of Work Agreement, require the worker to provide documentation evidencing the worker's compliance with clause 21 and any

procedures or practices the worker has put in place to ensure compliance with clause 21.

44. Under clause 24, the worker acknowledges and agrees that if Telstra exercises its rights to defer or suspend the provision of services under the Head Agreement, ISG Management will be entitled to defer or suspend any Services or Work under the 2013 Tickets of Work Agreement and neither ISG Management nor Telstra will be liable to the worker for any loss, damage, cost or expense suffered or incurred by the worker as a result of the deferral or suspension.
45. Under clause 25.1(a), ISG Management may terminate the 2013 Tickets of Work Agreement in whole or in part at any time without cause and for any or no reason by giving the worker not less than 7 days' notice.
46. Under clause 25.2, ISG Management may, without prejudice to any other rights and remedies it may have under the 2013 Tickets of Work Agreement or at law, immediately terminate the 2013 Tickets of Work Agreement in whole or in part by notice in writing to the worker, if:
 - a. the worker:
 - i. fails to perform any Work in accordance with the 2013 Tickets of Work Agreement; or
 - ii. commits a material breach of any of the worker's obligations under the 2013 Tickets of Work Agreement,

and if the failure or breach (as the case may be) is capable of remedy, the worker has failed to rectify that failure or breach (as the case may be) within 15 Business Days after receipt of written notice from ISG Management or any further time allowed by ISG Management;
 - b. the worker commits a material breach of any of the worker's obligations under the 2013 Tickets of Work Agreement and the breach is not capable of remedy; or
 - c. an Insolvency Event occurs in respect of the worker.
47. In respect of clause 25.3:
 - a. Under clause 25.3(a), if ISG Management fails to pay to the worker an amount due and payable to the worker under the 2013 Tickets of Work Agreement when required to do so, and fails to remedy the breach within 45 days from receipt of a written notice of default from the worker, the 2013 Tickets of Work Agreement may be terminated by the worker giving a written notice of termination to ISG Management.

- b. Under clause 25.3(b), the worker may after 24 months from the date of the 2013 Tickets of Work Agreement terminate the 2013 Tickets of Work Agreement for any reason by giving written notice of termination to ISG Management, and termination will be effective 30 days after the date the termination notice is given to ISG Management or any later date of termination stated in the notice.
 - c. Under clause 25.3(c), the worker acknowledges and agrees that the worker is not entitled to terminate except in accordance with clause 25.3.
48. Under clause 25.5(b), the worker acknowledges that if Telstra exercises its rights to terminate the Head Agreement, neither ISG Management nor Telstra will be liable to the worker for any loss, damage, cost or expense suffered or incurred by the worker as a result of the termination, except to the extent, if any, expressly set out in the 2013 Tickets of Work Agreement.

2013 Field Operations Manual

49. In around October 2013, ISG Management issued to workers, including the Applicant, a document entitled the "*Telstra Partnership Alliance Agreement Field Operations Manual*" (***2013 Field Operations Manual***).

Particulars

- (i) The 2013 Field Operations Manual was in writing.
 - (ii) ISG Management issued documents to the Applicant in 2013 in hard copy, and by reason of that fact, and the fact that the workers were required to comply with the 2013 Field Operations Manual (as pleaded in paragraph 49A below), it is to be inferred that the 2013 Field Operations Manual was issued to the Applicant by providing a hard copy to him.
 - (iii) That the 2013 Field Operations Manual was issued to workers is to be inferred from the fact that the workers were required to comply with it, as pleaded in paragraph 49A below.
- 49A. Workers were required to comply with the 2013 Field Operations Manual.

Particulars

The Applicant repeats paragraphs 61 and 62 below.

50. Under clause 4:
- a. The worker agrees that the worker will obtain the necessary Telstra endorsed accreditation course(s) through an authorised Registered Training Organisation prior to commencing work.

- b. ISG management may, at any time, by prior written notice to the worker, require the worker to provide additional or new services. ISG Management will negotiate new rates for the additional or new services. If the parties do not reach agreement on the new rates, the new rates and prices will be determined by ISG Management, based on reasonable assessment of the rates and taking into account all relevant costs, to reflect the direct cost of performing the new services.
- c. The worker will be expected to perform the Works between 7.00am to 7.00pm in the applicable area each day of the week (including public holidays).
- d. The worker may be required to work outside these hours to complete the Works within the specified timeframes and when urgent action is necessary in accordance with HSE management requirements.
- e. The worker agrees that ISG Management (or Telstra) is responsible for:
 - i. collecting and collating all data in Telstra's systems for the implementation of the KPI System;
 - ii. applying that data to the criteria stipulated in the KPI Section of the 2013 Field Operations Manual; and
 - iii. determining and providing to the worker the results of the implementation of the KPI System.
- f. No data other than that obtained from Telstra's systems will be used in the application of the KPI System.
- g. The worker agrees that KPIs may be varied without any compensation to the worker:
 - i. unilaterally by ISG Management where required by Telstra; or
 - ii. ISG Management, at its sole discretion, may introduce a new KPI.
- h. The worker accepts that ISG Management may in its absolute discretion vary the method and technology through which the work is issued without compensation to the worker. The worker acknowledges that ISG Management may vary existing Electronic Services or other processes and practices and introduce new Electronic Services or other processes and practices (including for issuing Work Orders and invoices and payment of invoices) at any time.
- i. ISG Management may recover any incorrectly charged amounts as a debt due and payable by the worker.

- j. If ISG Management identified in an audit that an incorrect rate under the SOR has been claimed by the worker, ISG Management may investigate and determine the extent of the incorrect claim and recover any incorrect amounts as a debt due by the worker to ISG Management.

51. Clause 4.1.1 provided as follows:

- a. Section 4.1 set out the procedures and work practices that the worker must follow in performing the Services under this Agreement (defined as the “Operational Procedures”).
- b. The Operational Procedures provide minimum technical specifications and provide technical direction and advice which reflects the established procedures and practises utilised within Telstra’s organisation for the performance of I&M Services and other network maintenance activities.
- c. Nothing in the Operational Procedures limits any obligations of the worker or rights of ISG Management under the Agreement.

52. Under clause 4.1.4:

- a. The worker shall comply with all notified relevant specifications, procedures and work practices applicable, including any provision and any amendment or variation to or replacement of an existing provision as notified from time to time, which are pertinent to the Services. Although the worker shall always have an opportunity to make its own practical suggestions, the Telstra Representative shall make the final decision on all procedures used.
- b. Except where the method of the Service has been specifically nominated or by subsequent written instruction issued, by the Telstra Representative it shall be the responsibility of the worker to decide how to execute all aspects of the work pertaining to the provision of the Services, while satisfying the requirements of the customer and Telstra.

53. Under clause 4.2.1, without limiting the terms of the CCT Agreement, the worker must wear appropriate safety apparel and utilise the appropriate personal safety equipment at all times.

54. Under clause 4.2.2:

- a. All equipment, machinery and vehicles used to perform the Services shall be maintained in good order and be suitable for the performance of the Services for which they are intended. Vehicle registration, equipment certification and licences shall remain current at all times.

- b. ISG Management, prior to the workers being permitted to commence the Services, may request such certifications, registrations and licences to be inspected.
 - c. All equipment shall be used in compliance with the manufacturer's specifications and instructions and operated in compliance with the Legislative Requirements.
55. Under clause 4.2.4, the worker must not service or wash any tools, equipment or machines in a street where it may be a source of annoyance to the public or cause damage to pavements or nature strips.
56. Under clause 4.2.5:
- a. Without limiting the terms of the 2013 Field Operations Manual, on completion of work at each Site, the worker must ensure that all rubbish generated as a result of the Service activity, surplus material, temporary works and construction plant shall be immediately removed from the Site.
 - b. The worker must also ensure that:
 - i. Sites shall be left in a clean, neat and tidy condition, equivalent to its condition before the Ticket of Work began; and
 - ii. The worker shall not use customer, Authority or private rubbish bins and shall only use approved commercial disposal facilities.
57. Under clause 4.2.6:
- a. Should residents close to a Site where any Services are performed or other members of the public express any concerns over the worker's operations, the worker shall advise ISG Management immediately with a plan for rectifying the situation.
 - b. Under no circumstances shall the worker aggravate residents or other members of the public.
 - c. ISG Management is a private company and has reporting responsibilities and obligations to its prime customers.
 - d. To ensure that ISG Management is seen as having only "One Voice" when communicating on behalf of ISG Management, the Managing Director is the official spokesperson for ISG Management and no comments are to be made by any other officer or worker of ISG Management.
 - e. Workers may not write letters to, nor give interview with, any section of the media in any way referring to ISG Management without the prior permission of ISG

Management. Full details of any inquiry received must be taken and immediately passed to the General Manager.

- f. This policy should not discourage people from positively promoting ISG Management, but where a statement is sought by any form of the local media, that comment shall be referred to the General Manager, who will seek clearance from the Managing Director.
- g. There is no exception to this policy.

58. Under clause 4.2.11:

- a. Variations on a Ticket of Work may be required from time to time on the Schedule of Rates type and quantity being claimed. In some cases these variations may require a pre-approval from ISGM and/or the client.
- b. The worker may be required to substantiate variations on work orders in both written format and/or with supporting evidence of a photo (etc).

59. Under clause 4.4.1:

- a. Telstra will deliver to the worker, via the WMS [Work Management System], Tickets of Work as specified in the Operational Procedures.
- b. The worker is to ensure KPIs and all Legislative Requirements are met.
- c. Telstra shall provide ISG Management and the workers with access to WMS. Access to and use of WMS by ISG Management and the workers is mandatory. The worker shall access WMS strictly in accordance with the Telstra Policies and any other direction as may be issued by Telstra for the purpose of obtaining details of information relating to Tickets of Work assigned to the worker by the Telstra Representative.
- d. The worker shall be responsible for the following with regards to Telstra Issue Material:
 - i. when performing the Services, the worker must ensure that the portable computer equipment is secured safely by a locking cable in the load area behind the cargo barrier of the vehicle. The cable lock must be attached to a substantial fitting in the vehicle, such as part of the vehicle frame or the cargo barrier, as well as being covered or concealed; and
 - ii. if the vehicle is to be parked and unattended for an extended period (greater than 8 hours), the laptop must be removed from the vehicle and placed in a more secure location.

60. Under clause 4.4.2:
- a. All Tickets of Work will be assigned via a Telstra WMS.
 - b. The workers will access WMS to enable the management of each Ticket of Work.
 - c. The worker will be accountable for the selecting, onsite and clearing of all Tickets of Work in real time using the WMS interface.
 - d. Telstra will assign and dispatch the worker's Tickets of Work. All Tickets of Work will be visible in "real time" to both Telstra and the worker.
 - e. The worker must ensure that all Ticket of Work information in relation to the progress and completion of that Ticket of Work is updated in WMS in "real time". This will ensure all Telstra staff responsible for the delivery of the required service are aware of the progress and have accurate data in relation to each Ticket of Work.
61. Under clause 5, the worker shall adhere to this Agreement, in relation to the performance of work required when completing Tickets of Work.
62. Under clause 5.1:
- a. The worker will perform the Services according to the requirement of this Agreement and shall interact with various Telstra work groups to complete each Ticket of Work.
 - b. The worker shall be responsible for:
 - i. managing Tickets of Work from the time the task is "assigned" through to completion;
 - ii. ensuring each Ticket of Work is reviewed prior to accepting a Ticket of Work to ensure the task meets activities covered under these Operational Procedures;
 - iii. ensuring work is performed in a way that does not cause any unnecessary interruptions to the services of any user of the Network;
 - iv. strictly complying with all required procedures in relation to any interruptions to Special Services;
 - v. ensuring all information is updated in WMS in "real time" to accurately reflect the current status of a Ticket of Work;
 - vi. ensuring only completed Tickets of Work are registered as completed immediately at the end of each job in WMS, with all the required details and information;

- vii. ensuring all interactions with the customer meets ISG Management's expectations;
 - viii. ensuring all requests outside the scope of the worker's responsibilities are refused in WMS with details of reason for refusal within 2 hours of the Ticket of Work being assigned by Telstra;
 - ix. confirming task details with the customer prior to attending the Site. An Incomplete Ticket of work will not be paid where these details were not confirmed in advance. The worker must ensure that the worker rings the particular customer on approach to confirm customer attendance;
 - x. recording all actions associated with a task to ensure an audit trail is visible;
 - xi. providing regular feedback to ISG Management to assist with continuous improvement of systems and processes used to deliver service.
- c. The worker will perform, manage and complete the works in accordance with processes and standards described in Procedures 015 053 and 015 054 and Technical Manuals in the Contract.
 - d. In the event that the work required to complete the Ticket of Work is beyond the scope of a single SOR item specified in the Ticket of Work, the worker must procure supporting documentation while on Site to support claims for additional SOR items in accordance with the Reimbursable Rates Spreadsheet.
 - e. Telstra will not pay for any additional work or items that were performed by the worker unless sufficient supporting documentation is supplied by the worker to establish, to Telstra's satisfaction, that the additional work or item was required.
63. Under clause 5.1.1, the worker must ensure that all customer Appointments are met on the day specified in the Ticket of Work or arranged with the customer. Where the worker has identified that they will be unable to attend the Appointment on the day as notified on the Ticket or Work or arranged with the customer, the worker must notify the ISG Management Team Manager, as soon as possible, and at least by 4pm (local time) on the day of the Appointment and must provide details in WMS of how the worker will manage and recover the Appointment. The worker must comply with the KPIs relating to customer Appointments and Commitments.
64. Under clause 5.1.2:
- a. The worker must ring the customer on approach to the Customer's Premises. If there is no answer after calling all numbers on the Ticket of Work, attendance at the Customer's Premises by the worker is still required to meet the Appointment.

- b. At the initial contact with the customer, the worker must identify themselves with their Photo ID and Letter of Introduction and explain the reason for the visit.
 - c. All aspects of the applicable Services shall be explained to the customer before work proceeds. This shall include the method of installation of any cable, filtering device(s), internal installation, and any applicable amount of payment for Fee For Services activities.
 - d. The worker will ensure all Ticket of Work forms and other paper work is submitted to Telstra within the required timeframes. Documentation includes, but is not limited to, E88s and E89s for network and lead-in upgrades (in soft copy format and, where specifically requested by Telstra, hard copy format), damages, SNI plans for escalation, incomplete data, and Health and Safety documentation.
65. Under clause 7:
- a. ISG Management shall provide to the worker at the end of each month a monthly performance report and data.
 - b. The report provided shall include performance details in accordance with the KPIs detailed in the Contract and shall include:
 - i. details of revisits within 7 days filtered (KPI 1.1);
 - ii. details of revisits within 30 days (KPI 1.2);
 - iii. number of Tickets of Work missed (KPI 2);
 - iv. details of Incomplete Tickets of Work (KPI 3);
 - v. audits conducted by Telstra and number of non-conformances;
 - vi. number of customer Complaints received by Telstra and their status; and
 - vii. inventory usage/supply.
66. Under clause 8.1:
- a. The documents constituting the Telstra Policies are available to the worker via TCSS or via Toolkit. These documents state the design rule, technical requirements and procedures for all work required by these Operational Procedures.
 - b. The contents of the Telstra Policies may be changed or updated by the Telstra Representative at any time.
67. Under clause 8.2, the worker shall comply with the requirements stated in the Telstra Policies, but only to the extent those requirements do not conflict with the terms and conditions of this Agreement.

68. Under clause 8.3:
- a. In addition to Telstra's requirements, where appropriate the Services completed by the worker shall also be performed in strict accordance with the specifications and guidelines nominated by ACMA, as amended from time to time.
 - b. If any conflict exists between the ACMA guidelines and the requirements of this Agreement, the worker shall seek advice and direction from the ISG Management Team Manager in writing. The Telstra Representative shall then issue a Direction to the Team Manager.
 - c. The worker's representatives working on ACMA approved cabling shall be appropriately accredited to carry out such work.
 - d. It is the worker's responsibility to ensure that the worker is aware of the latest ACMA publications and that the Services are completed to those requirements. It is also the worker's responsibility to provide and keep on hand copies of relevant ACMA manuals and any updates for reference while carrying out the requirements of this Agreement.
69. Under clause 9.2.2, the worker must undertake and demonstrate that they have undertaken the relevant site induction training from a certified external trainer prior to requesting a Telstra Contractor Identification badge or Telstra keys, as required by the Telstra Policies in relation to the site access procedures.
70. Under clause 10:
- a. All workers must have the correct/appropriate insurance cover in place prior to carrying out any work for ISG Management in accordance with the Subcontractor Agreement.
 - b. In general, evidence of current and suitable insurance policies must be provided and checked prior to engagement. Evidence must be in the form of a Certificate of Currency or a letter provided by the insurance company (not broker) with a company letterhead. Insurance renewals such as tax invoices are not sufficient evidence of a current policy and should not be accepted by ISG Management as evidence.
 - c. A process to continually verify currency of insurance will be in place for all active workers.
 - d. The worker must take out and maintain, on terms and with reputable insurers, public liability insurance for \$10 million per claim, workers compensation insurance, comprehensive motor vehicle insurance, and general property insurance.

71. Under clause 10.3:

- a. Workers must as a minimum meet the requirements specified by ISG Management.
- b. Workers shall provide their own tools and workers shall be responsible to maintain such tools and equipment in a fit state, fully operational and at all times calibrated as per manufacturer's recommendations.
- c. The Tools and Test Equipment typically required were as set out in the table entitled "*Tools*" (consisting of 69 items).
- d. Each worker must supply and use or wear (as the case may be), tools of the type that at least meet the function and quality of the items on the tools list provided by ISG Management, suitable wet weather equipment and clothing, and all necessary personal protective equipment, except for items that ISG Management agrees to supply.
- e. The worker shall be responsible for these items and ensure that they are maintained in good working order and repair or replaced as necessary, and that the tools and personal protective equipment are inspected and calibrated in accordance with the Australian Standards. The worker must ensure all PPE and Safety Equipment are routinely inspected and that inspection records are maintained.
- f. The worker shall be responsible to ensure all electrical leads have been tested and tagged and these items are maintained in good working order and repair or replaced as necessary, in accordance with the Australian Standards.

72. Under clause 10.4:

- a. Workers must as a minimum meet the requirements of their own safety management systems and those of ISG Management.
- b. Workers shall provide their own PPE and shall be responsible to maintain such PPE in a fit state, fully operational at all times as per manufacturer's recommendations.
- c. The sub-contractor is responsible to fulfil its duty of care to provide a work environment that is safe and healthy for its own workforce and to be aware of any legislative changes in the industry.

73. Under clause 10.5:

- a. All workers must be inducted into the ISGM Safety Plan.

- b. Prior to undertaking field activities and before engaging any worker, ISG Management will:
 - i. Audit that worker's JSA / Risk Assessments / Site Specific Safety Management Plans and/or SWMS, to ensure they comply.
 - ii. An initial audit shall be completed for their vehicle / PPE using a suitable Field Safety and Environmental Audit Checklist ISG-HSE-PAA-FRM-0058.
 - iii. All non-compliant items must be addressed and verified prior to commencing work.
- c. Each worker must have a copy of the safety management plan available at all times in either soft or hard format.
- d. ISG Management will inspect, monitor and document the performance of each worker to ensure compliance with the OH&S Regulations. This includes conducting health and safety inspections on a 26 weekly frequency to identify hazards associated with Services performed under the I&M Project. The audits verify that correct OH&S processes are actively utilised and that their tools / equipment / PPE remain suitable for the task.
- e. In the event that workers are found not to be working to the requirements of the Safety Plan or SWMSs, ISGM will immediately issue a Stop Order for any future projects until the non-compliant process has been closed out.
- f. All field audits shall be completed using Field Safety and Environmental Checklist ISGM-HSE-PAA-FRM-0058. Metro based field staff shall be audited every 26 weeks (a self-assessment by the worker every 52 weeks and an ISG Management assessment the alternate 52 weeks). The worker is required to perform a self-assessment every 52 weeks, which will be approved the ISGM CCT TM. In this way, workers are audited every 26 weeks. The results of these audits shall determine when follow up audits are scheduled, typically where the audit requires actions to be undertaken.

74. Under clause 10.7:

- a. Workers must as a minimum meet the operational requirements of Telstra.
- b. Workers shall provide their own vehicle, which shall always be registered, comprehensively insured and maintained in a roadworthy condition to be kept clean and presentable at all times and fit for purpose.

- c. Branding and logos are not permitted, other than those approved by ISG Management and Telstra.
- d. The worker shall ensure the vehicle is a commercial type vehicle fit for the purpose of completing the Services, and that the vehicle is well kept, clean and tidy in appearance and free from accident damage.
- e. The worker must also ensure that:
 - i. The vehicles do not display any advertising that may be adverse to it or Telstra's commercial interests or corporate image; and
 - ii. The vehicles are branded in accordance with this Schedule.
- f. All vehicles shall be approved by ISG Management prior to their initial use for the provision of the Services and may be inspected by an ISG Management representative at any time during the term of this Agreement.
- g. The worker shall advise the ISG Management representative when any new vehicle is introduced or the replacement of an existing vehicle is made.

75. Under clause 10.8:

- a. Workers must as a minimum meet the minimum skill requirements of ISG Management and Telstra with regards to accreditations, qualifications, licences, training and experience.
- b. Accreditations must be supplied to ISG Management and must be obtained through the approved ATO or industry body and be recognised by ACMA.
- c. Without limitation the worker agrees that they have completed and hold currently the specific industry requirements to undertaken services under the agreement.
- d. The worker must ensure that at all times all licences and accreditations are current for the State in which the worker operates and in which the work is being undertaken. The worker must promptly notify ISG Management as soon as practicable if any qualifications, licences and or accreditations, expire, lapse are suspended or change. A lapse or change in any qualifications, insurance and/or accreditations under this Agreement does not mitigate the responsibilities of the worker in complying with the requirements of the Agreement.
- e. Workers must meet the minimum skill requirements of ISG Management and Telstra with regard to accreditations, qualifications, licences, training and experience.

76. Under clause 10.9, in respect of any Work, the worker represents that the following statements are and will be true and not misleading throughout the period starting on the

Commencement Date for the Work and ending on the last day of the Defects Liability Period for the Work:

- a. The worker is highly skilled, qualified, accredited and experienced to carry out the Work.
- b. The worker has the skills, tools, capacity, accreditations, licences, endorsements and experience to carry out the Work and to support the Work.
- c. The worker has no actual or anticipated conflict of interest in undertaking the Work.
- d. The worker is fully complying, and has always fully complied, with its statutory employee obligations including, without limitation, in relation to worker's compensation, payroll tax, PAYG tax instalments, and superannuation contributions.
- e. At the date of this Agreement the worker is not aware of anything which would prevent the worker from obtaining, or being entitled to make a claim under, an insurance policy required under this Agreement.

77. Under clause 10.10:

- a. The worker shall ensure that the worker is directly contactable at all times during their scheduled working hours in order to allow Telstra to determine the status of work in progress and likelihood of meeting Appointments.
- b. At all reasonable times ISG Management shall make the workers and the ISGM Team Manager available as necessary to meet with the Telstra Representative to discuss aspects and progress of any Ticket of Work.

78. Under clause 10.11:

- a. Without limiting clause 7 of the Agreement, the worker shall ensure that the standard of dress and behaviour of it and its Representatives when undertaking the Services complies with Telstra's requirements as notified by ISG Management from time to time.
- b. The worker must also ensure that:
 - i. when entering a Customer Premises, workers shall ensure that their footwear is clean;
 - ii. workers that are required to wear a co-branded uniform wear the required uniform and restrict their items worn to the approved range; and

- iii. all of the workers required to wear the co-branded uniform are responsible for the maintenance and cleanliness of their wardrobe, and must ensure that the uniform is laundered appropriately and maintained in good condition to maintain the professional image of the worker and Telstra.
 - c. The worker must also ensure that any co-branded item of uniform is not to be worn outside the normal working hours of the worker other than:
 - i. when undertaking the Services;
 - ii. travelling between work locations whilst performing the Services;
 - iii. when representing Telstra on official business in relation to the Services.
 - d. The date on which ISG Management will commence the supply of uniform items, and the specific co-branding requirements, will be as agreed in writing between the parties as contemplated under this Agreement.
 - e. ISG Management will provide:
 - i. each worker with co-branded uniform consisting of 6 shirts, 4 pants, 1 jacket, 2 overalls – “Action Back”, 1 coverall, 1 hat, 1 beanie, 1 belt, 6 pairs of socks and 1 safety vest; and
 - ii. each worker with vehicle co-branding elements in a variety of mediums, such as sticks and/or magnetic labels, as reasonably determined by ISG Management, including with respect to quantity.
 - f. ISG Management will provide additional uniform items and vehicle co-branding elements to workers as determined necessary by ISG Management having regard to the work environment in which the relevant worker operates.
 - g. Uniforms and vehicle co-branding elements will be replaced by ISG Management as and when required where such replacement is necessary as a result of fair wear and tear (as reasonably determined by Telstra).
79. Under clause 10.12:
- a. The worker engaged on the Services shall carry:
 - i. A letter of introduction (laminated) from Telstra that the nominated person is authorised to perform the specified work on behalf of Telstra (which must be returned to Telstra in the event of termination of the workers engaged by ISG Management, or if the worker otherwise ceases involvement in the provision of the Services); and

- ii. A letter of introduction (laminated) from ISG Management, that the nominated person is an employee, subcontractor or agent of ISG Management and is authorised and trained to perform the Services requested.
 - b. Branding and logos other than those permitted by the client are not permitted.
- 80. Under clause 10.14:
 - a. Working hours and availability are stipulated in the Subcontractor Agreement.
 - b. Workers are required to be made available on a flexible basis, and this will require those Services to be performed outside of standard business hours.
 - c. ISGM's Managers may, from time to time, discuss flexible working requirements with subcontractors, however, in general, it is the worker's responsibility to work with ISG Management and the client to ensure there is appropriate availability. This will be done based on worker demand and work volumes and may be across a 7-day period.
 - d. The worker will be expected to perform the Works within the following hours:
 - i. between 7.00am and 7.00pm in the applicable area each day of the week (including public holidays);
 - ii. the worker may be required to work outside these hours to complete the works within the specific timeframes and when urgent action is necessary in accordance with HSE management requirements or emergency call outs required by Telstra. The worker acknowledges that Work Orders may be allocated outside of the worker's agreed hours in cases of emergencies and the appropriate rates will apply.
- 81. Under clause 10.15:
 - a. Team Managers will be conferring with workers on a daily basis.
 - b. Workers who intend to make themselves unavailable for normal services must notify the Team Manager with at least 5 business days written advance notice. This is to allow for rescheduling of TOW rules in the Telstra work force management system.
 - c. Flexible arrangement around non-availability to suit things as "family emergencies" etc will be subject to local agreement between the parties.
 - d. The worker must not refuse to accept a Work Order for Work because of the time or period it is required to be performed where that occurs during the worker's agreed availability (i) except under circumstances of incapacity, or (ii) personal

circumstances, which require 5 business days' written notice to ISG Management or as soon as practicable.

82. Under clause 10.16:

- a. The relationship between ISG Management and the worker is non-exclusive. As there are no guarantees on the volume of work the worker is not required to work exclusively for ISG Management.
- b. However, while a worker is scheduled for services, it is the intention of ISG Management that all workers will be fully focussed on Telstra's customers for the scheduled periods of work.
- c. While performing TOW tasks for ISG Management, workers are not permitted to promote or undertake other CPE telecommunications services that may or may not have a competitive conflict of interest with the client.

83. Under clause 10.17:

- a. ISG Management's payment and invoicing process is intrinsically linked to "Connect" (Telstra's Workflow Management System).
- b. As such, the work details issued via "Connect", and the Schedule of Rate (SOR) item used by each worker to indicate task completion within "Connect", effectively perform the record-keeping and billing function of each and every job that a worker will be involved in on the PAA Project.
- c. It is critical that each worker uses the correct SOR item when closing jobs and should be undertaking daily checks.
- d. At the end of each week, the faults and submitted SOR item are used to ensure that the correspondent Schedule of Rate (SOR) is allocated to the job. This is the mechanism that calculates the correct financial remuneration owing to the worker.
- e. Consequently, at all times, the worker recognises the importance of meeting the payment processes summarised above (and detailed within the Agreement) to facilitate the prompt payment initiatives developed within this Agreement.
- f. Tax invoices will be created on behalf of the worker by ISG Management, using the data entered into "Connect" by the worker under a process known as "Recipient Created Tax Invoicing".
- g. Payment to the worker will be made by ISG Management weekly (in arrears) within 7 days of the RCTI being issued.

- h. It is a requirement of this Agreement for the worker to monitor and validate the worker's Work activities via the Toughbook and/or other agreed processes.
 - i. In order to reduce inaccuracies in reporting and also to ensure that no delays in payment occur as a consequence of inaccurate reporting, ISG Management expects that each worker will, at the end of each business day, check the SOR item(s) claimed against each allocated job.
 - j. If the worker does not comply with all of the above requirements, ISG Management may:
 - i. elect to process the RCTI as though the worker has approved the RCTI as described within the Contract; or
 - ii. withhold payments to the worker until such time as the worker complies with the RCTI process as described in clause 4.24 of the Contract.
 - k. If the worker fails to comply with the RCTI process detailed within this section, the Team Manager will notify the worker of ISG Management's response and next steps for resolution.
 - l. The worker is to ensure that all claims for payments under the reimbursable rates are available for audit by ISG Management.
 - m. Workers can also qualify to receive incentive payments and conversely be subject to dilution of incentive payments (known as: Performance Indicator Rights (PIRs)) based on their performances as outlined elsewhere within this document.
 - n. If the worker qualifies for any incentive payment or dilution of incentive payments, these will be processed fortnightly in arrears by ISG Management.
84. Under clause 10.18:
- a. All work performed by a worker is recorded within "Connect".
 - b. The materials used within the restoration process, the time the fault was cleared and the restoration activities performed are all uploaded to "Connect" after a CCT has closed job via his Toughbook.
 - c. The detail provided by a worker into Connect (via Toughbook) is a true, accurate and permanent record of works performed by the worker for each job detailed.
 - d. On this basis, and from the information made available to ISG Management from "Connect", ISG Management will produce, on behalf of the worker, a Recipient Created Tax Invoice (RCTI) as a record of the works performed by, and of the monies due to, the worker for the previous week worked.

- e. Once submitted to each worker by ISG Management, the worker has 24 hours within which to acknowledge the RCTI as a true records of works performed allowing the processing of payment to proceed.
 - f. Should a worker not complete the RCTI process within the 24 hours window, then the RCTI will be deemed by both the worker and ISG Management as having been approved by the worker.
85. Under clause 10.19:
- a. Information from “Connect” is vetted by ISG Management prior to creation of the RCTI. This vetting process is a check for:
 - i. incorrect SOR items used against jobs issued to a worker; and
 - ii. a check for anomalous quantities of materials used during the undertaking of tasks.
 - b. Incorrect and anomalous information will be corrected by the TM prior to the creation of the RCTI. This may involve the requirement to query the worker about the job detail, the accuracy of the information, the fix implemented and the record-keeping/reporting process.
 - c. Should the worker find that an error in payment has occurred, the matter should be raised at the soonest possible instance to the TM with all supporting documentation made available.
86. Under clause 10.21:
- a. The KPI regime contemplated by this Agreement provides a mechanism for the measurement of the worker’s performance of the Services against key business metrics.
 - b. The aggregate of PIRs are determined based on the total points gained by a worker through the reporting period.
 - c. KPIs are used to measure the worker’s performance of certain of its obligations.
 - d. Each KPI is a specific and detailed indicator, which is set out in the KPI table.
87. Under sub-section 1 of clause 10.21:
- a. KPI #1.1 was “*Revisit (7 days)*”, the purpose of which was to minimise re-work on faults and on New Service Connections.
 - b. KPI #1.2 was “*Revisit (30 days)*”, the purpose of which was to minimise re-work on faults and on New Service Connections.

- c. KPI #1.3 was “*Revisits (Jumpers Runners Only)*”, the purpose of which was to minimise re-work on New Service Connections.
 - d. KPI #2 was “*Appointments and Commitments met*”, the purpose of which was to ensure that all customer Appointments and Commitments are met.
 - e. KPI #3.1 was “*Incompletes*”, the purpose of which was to minimise the amount of Incomplete Tickets of Work.
 - f. KPI #3.2 was “*Incompletes (Jumper Runners Only)*”, the purpose of which was to minimise the amount of incomplete Tickets of Work.
 - g. KPI #4.1 was “*Complaints Avoidance*”, the purpose of which was to minimise customer complaints.
 - h. KPI #4.2 was “*Complaints Resolution*”, the purpose of which was to ensure Complaints are resolved in a timely manner.
 - i. KPI #5 was “*Compliance to health, safety and environment incident reporting*”, the purpose of which was to ensure all Incidents are promptly notified to Telstra.
 - j. KPI #6 was “*Quality of completed work*”, the purpose of which was to measure the quality of completed Tickets of Work and ensure each Ticket of Work is completed to an acceptable standard.
 - k. KPI #7 was “*Customer Experience*”, the purpose of which was to support achievement of Telstra Customer Satisfaction targets.
88. Under sub-section 2 of clause 10.21, ISG Management may terminate this Agreement where the worker’s performance with respect to a particular KPI does not meet the required Target for that KPI:
- a. for 2 or more consecutive Measurement Periods; or
 - b. for 3 or more Measurement Periods in any 6 month period.
89. Under sub-section 5 of clause 10.21:
- a. Telstra and ISG Management must review the KPIs on an annual basis or as more regularly required by Telstra. However, nothing in the annual review process limits or restricts any potential variation to the KPIs (or elements relevant to KPIs, for example Targets) contemplated in clause 4.2 [sic].
 - b. In any review of the KPIs, the parties agree to in good faith consider and use their reasonable efforts to agree to adjustments to the KPIs or elements relevant to KPIs (for example, Targets or PIRs) as appropriate to:

- i. add new, change or remove KPIs or elements to reflect the needs of Telstra's business;
 - ii. reflect the worker's improved performance in the metrics used to measure the KPIs. Such improved performance may arise as a result of any of the following – the technology used to perform the Services, the processes used to perform the Services, or the monitoring methods used;
 - iii. reflect performance metrics achieved by other providers of services similar to the Services.
 - c. The worker must not unreasonably withhold its agreement to any changes to the KPIs proposed by Telstra and ISG Management.
 - d. Notwithstanding the annual review process contemplated in clause 4.1 [*sic*], the worker agrees and acknowledges that Telstra and ISG Management may, from time to time and by notice to the worker, unilaterally vary any KPIs (or elements relevant to KPIs), including to add or remove any KPI or increase a Target, where the relevant change is implemented to ensure consistency between the KPI regime applicable to this Agreement and Telstra's internal targets or comparable key performance indicators (or similar) applied to its internal workforce.
90. Under sub-section 6 of clause 10.21:
- a. Telstra and ISG Management are responsible for:
 - i. collecting and collating all data in Telstra's systems for the implementation of the KPI regime contemplated by this Schedule;
 - ii. applying that data to the relevant KPI criteria stipulated in this Section; and
 - iii. determining and providing to the Supplier the results of the implementation of the KPI regime and any applicable PIRs and Incentives.
 - b. Subject to clause 5.2 [*sic*], no data other than that obtained from Telstra's systems will be used in the application of the KPI regime.
 - c. The worker may, on request, have access to the data referred to in section 5.1 [*sic*] at all reasonable times in the form determined by ISG Management.
 - d. The worker, on request, shall provide any data (or analysis or feedback of data, including any root cause analysis) requested by ISG Management on its performance of its obligations under this Agreement, including with respect to

receipt and resolution of Complaints, notification of incidents and result of any audits performed by the worker.

- e. Any such data provided or analysis or feedback of data must be:
 - i. certified by the relevant Regional ISGM Manager to be accurate and complete;
 - ii. prepared in accordance with the form agreed by the parties or as advised by ISG Management;
 - iii. prepared at the frequency as advised in writing by ISG Management to the worker from time to time.
- f. If the Supplier is unable to provide any requested data or analysis or feedback of data, ISG Management is entitled to rely on its own information for the purposes of determining the extent to which the worker has complied with the KPIs. If the information relevant to such determination does not exist, ISG Management is entitled to conclude that the worker has not complied with the applicable KPI.
- g. The worker must implement measurement and monitoring tools and procedures, as directed by ISG Management, to ensure that the worker is able to comply with its obligation.

91. Under clause 10.22:

- a. ISG Management's standard business practice involves regularly reviewing the performance of managers and personnel to ensure the success of any project including the meeting of client contractual obligations against the KPIs.
- b. Weekly performance results are available through the work management systems and will be available to workers. Similarly, regular structured performance assessment of ISG Management's workers is of vital importance to ISG Management's business.
- c. Performance will be monitored on a daily / weekly / monthly basis.
- d. Performance reviews shall be conducted as required and will be more frequent where there are remedial processes in place. Recently engaged workers may be assessed more regularly and poorly performing workers should be reviewed at intervals deemed necessary by ISG Management.
- e. ISG Management is responsible for the "*Conduct of the Subcontractor*". The ISG Management Operations Manager is responsible for the completion of these assessments and any resultant counselling and disciplinary process.

- f. The “*Subcontractor Evaluation / Interview Worksheet (ISGM-OPS-PAA-FRM-0055)*” will be used for this purpose. Supporting documentation/reports should be compiled prior to conducting the review; these should be filed with the evaluation worksheet.
- g. When such reviews are conducted it is also important to confirm the currency of the details being referred to in the review. Also, copies or previous evaluations should be available and examined for trends etc.
- h. The performance evaluation assesses the subcontractor across a wide range of criteria such as:
 - i. Work Quality.
 - ii. Customer Focus and presentation skills.
 - iii. Results of Customer Complaint investigations.
 - iv. Commitment and availability.
 - v. Flexibility for unforeseen tasks.
 - vi. Risk Assessments, controls and compliance to HS&E.
 - vii. Damages to network and plant.
 - viii. Administration of their business.
 - ix. Compliance to the Code of Conduct ISGM-OPS-PAA-SOP-0081.
 - x. Specific KPIs on TOWs.
- i. Performance assessments are conducted to ensure our customer obligations are being met and to continually improve our business. They should be conducted in a co-operative manner using objective data to score the subcontractor’s performance against the established criterion.
- j. Where appropriate, the feedback should be positive and encourage, written to congratulate good performance and able to detail performance improvement opportunities.
- k. ISG Management may terminate this Agreement where the worker’s performance with respect to a particular KPI does not meet the required Target for that KPI:
 - i. for 2 or more consecutive Measurement Periods; or
 - ii. for 3 or more Measurement Periods in any 6 month period.

92. Under clause 10.29, with respect to worker Costs, the maximum rates (the Reimbursable Rates) for which ISG Management will reimburse the worker with respect to the worker's obligation under this agreement are those identified in the "*CCT Agreement*" as the Reimbursable Rates Spreadsheet.
93. Under clause 10.33:
- a. ISG Management is committed to providing a work environment that encourages and maintains the safety, health and well-being for all employees, sub-contractors, clients and visitors.
 - b. ISG Management recognises that management has the overall responsibility to provide a safe workplace. Each management representative will be held accountable for implementing this policy in his or her area of responsibility and each worker is responsible for implementing safe systems of work at each job site.
 - c. To achieve their aims, ISG Management and workers will:
 - i. Provide safe plant and safe "systems of work" through effective hazard management.
 - ii. Provide written procedures and instructions detailed "safe systems of work".
 - iii. Conduct audits to ascertain that safe systems of work are implemented and maintained.
 - iv. Ensure compliance with statutory and legislative requirements.
 - v. Maintain a safety management system that conforms to AS/NZS 4801, and integrate this system into our operations.
 - vi. Provide employees, sub-contractors and customers with effective communication, instruction, training or supervision, as appropriate, to protect their safety.
 - vii. Provide appropriate conditions to protect the welfare of employees and sub-contractors.
 - viii. Provide a consultative mechanism with employees and sub-contractors on important safety related issues.
 - ix. Establish and maintain measurable objectives and targets.
 - x. Undertake periodic reviews of this policy, documentation and processes to ensure they remain relevant and appropriate.

- xi. Commit to continuous improvement.
- d. Further, and in accordance with ISG Management's Code of Conduct ISGM-OPS-PAA-SOP-8801, each worker should be committed to providing and maintaining a work environment that is safe and healthy for all employees, contractors, visitors and the public.
- e. To pursue the vision of zero injuries and occupational illnesses, the workers will:
- i. Meet or exceed legislative and contract HS&E requirements.
 - ii. Strive to be the leaders in OH&S performance in the telecommunications industry.
 - iii. Actively promote a safety culture.
 - iv. Ensure all PPE and Safety Equipment is routinely inspected and that inspection records are maintained.
 - v. Attend and participate in scheduled toolbox meetings.
 - vi. Conduct its operations in a manner consistent with the philosophy that all incidents and injuries are preventable.
 - vii. Provide and maintain competent employees and safe premises, plant, equipment, substances and systems of work. Where the worksite is not controlled by ISG Management, take all reasonable steps to ascertain that the place of work is safe.
 - viii. Induct, educate, train, competency and supervise its employees to ensure that work is conducted in a safe and healthy manner and in accordance with its Safety Management Plans, Safe Work Method Statements and JSEA's.
 - ix. Utilise a risk management approach (hazard identification, risk assessment and control, evaluation) when purchasing, designing, modifying and reviewing its premises, plant, equipment, substances and systems of work.
 - x. Attend and participate in Occupational Health and Safety committee meetings as scheduled or invited to attend.
 - xi. Document and regularly review safe systems of work and behaviours for work tasks.
 - xii. Investigate all incidents and injuries (as directed), and ensure that corrective actions are implemented to prevent recurrence.

- xiii. Collect performance indicators, incident and injury data, and utilise this information to drive continuous improvement processes.
- xiv. Make managers and supervisors responsible and accountable for the health and safety performance of their operations.
- xv. Regularly remind all employees that they have an obligation to work safely, to the benefit of themselves, their families, fellow workers and the organisation.
- xvi. Complete an ISG Management induction and refresher training as required.

February 2015 Tickets of Work Agreement

93A. In around February 2015, ISG Management entered into agreements with workers entitled “Tickets of Work Standing Offer Agreement” (February 2015 Tickets of Work Agreement).

Particulars

- (i) The February 2015 Tickets of Work Agreement was in writing.
- (ii) In respect of the proposition that the February 2015 Tickets of Work Agreement was entered into as between the Respondent and the workers (as defined in paragraph 1A), the Applicant repeats particular (ii) of paragraph 13 above (save that it should be read as referring to the February 2015 Tickets of Work Agreement).

93B. The February 2015 Tickets of Work Agreement was, in substance, the same as the 2013 Tickets of Work Agreement, save that the February 2015 Tickets of Work Agreement contained a new clause 28.2 (concerned with trustee warranties).

93C. The February 2015 Tickets of Work Agreement was, in substance, the same as the October 2015 Tickets of Work Agreement, save that:

- a. the October 2015 Tickets of Work Agreement used the expression “Subcontractor” instead of “CCT” in referring to the corporation who was named in the October 2015 Tickets of Work Agreement;
- b. the October 2015 Tickets of Work Agreement had a new clause 1.3 (concerned with incorporating, as part of the October 2015 Tickets of Work Agreement, the 2015 Field Operations Manual) (referred to in paragraph 95 below);
- c. the October 2015 Tickets of Work Agreement had a new clause 7 (concerned with defects) (referred to in paragraph 108 below);

- d. the October 2015 Tickets of Work Agreement had an amended clause 9 (concerned with KPIs) (referred to in paragraph 111 below);
- e. the October 2015 Tickets of Work Agreement had a new clause 10.4 (concerning the Building Code) (referred to in paragraph 114 below); and
- f. the October 2015 Tickets of Work Agreement had a new clause 10.5 (concerning amendment of manuals and policies) (referred to in paragraph 115 below).

October 2015 Tickets of Work Agreement

94. On around 30 October 2015, ISG Management entered into agreements with workers, including the Applicant, entitled “*Tickets of Work Standing Offer Agreement*” (**October 2015 Tickets of Work Agreement**).

Particulars

- (i) The October 2015 Tickets of Work Agreement was in writing.
 - (ii) The Applicant repeats (ii) of the particulars to paragraph 13 above.
95. In respect of clause 1.3:
- a. Under clause 1.3(a), by entering into the October 2015 Tickets of Work Agreement, the worker acknowledges having been provided with a copy of the document “ISGM-OPS-PAA-MAN-# Field Operations Manual” (“*Field Operations Manual*”) and copies of the ISG Management Policies and Procedures. The worker also acknowledges having been provided with access to each of the documents referred to in the Field Operations Manual, and copies of the ISG Management Policies and Procedures.
 - b. Under clause 1.3(b), the worker acknowledges that the Field Operations Manual (as amended from time to time) forms part of the October 2015 Tickets of Work Agreement (with the October 2015 Tickets of Work Agreement to take precedence to the extent of any inconsistency with a document incorporated in it).
96. Under clause 2.1, the worker will carry out the Services on and from the Effective Date until the expiry or termination of the October 2015 Tickets of Work Agreement and otherwise in accordance with:
- a. the October 2015 Tickets of Work Agreement; and
 - b. the terms of any relevant ticket or work or similar ordering document or schedule issued by ISG Management (“*Ticket of Work*”).

97. In respect of clause 2.2:

- a. Under clause 2.2(a), from time to time during the Term, the worker may be issued with one or more Tickets of Work requesting the worker to provide Services, including services of a like or similar nature, at one or more Sites.
- b. Under clause 2.2(b), ISG Management will procure Telstra to provide a Toughbook to each of the worker's Representatives.
- c. Under clause 2.2(c), each Ticket of Work will be communicated to the worker's Representatives via the Toughbook (unless ISG Management has advised the worker that it will communicate Tickets of Work by another means).
- d. Under clause 2.2(d), the worker will ensure that the worker's Representatives use reasonable endeavours to accept each Ticket of Work that the worker receives in accordance with the October 2015 Tickets of Work Agreement.
- e. Under clause 2.2(e), if a worker's Representative is unable to accept a Ticket of Work, the worker will ensure that the Representatives will give notice of the reasons for the non-acceptance via the Toughbook (unless ISG Management has directed that worker to give notice by some other means) as soon as possible after receiving the Ticket of Work and within the time frame directed by ISG Management for notification of non-acceptance.
- f. Under clause 2.2(f), in addition to clause 2.2(e), if any Representative rejects a Ticket of Work, the worker will ensure that the worker's Representatives notify the ISG Management Team Manager of the Representative's reasons for rejecting the Ticket of Work in order to assist with re-allocation of the Ticket of Work.
- g. Under clause 2.2(h), the worker's Representative will be taken to have accepted a Ticket of Work on behalf of the worker unless the worker's Representative notifies ISG Management in accordance with clauses 2.2(e) and (f) that the worker does not accept the Ticket of Work.
- h. Under clause 2.2(j), the worker acknowledges and agrees that Tickets of Work will be issued for Work to be performed by the worker inside of and outside of standard business hours and Business Days, including on weekends and public holidays, and, subject to the availability of the worker's Representatives as notified to ISG Management, the worker must ensure that the worker's Representatives will be available to perform the Work.
- i. Under clause 2.2(k), ISG Management may, at any time, by prior written notice to the worker, require the worker to provide additional or new services. ISG

Management will negotiate new rates for the additional or new services with the worker. If the parties do not reach agreement on the new rates, the new rates and prices will be determined by ISG Management, based on reasonable assessment of the rates and taking into account all relevant costs, to reflect the direct cost of performing the new services.

98. Under clause 2.3(d), unless otherwise stated in the October 2015 Tickets of Work Agreement, the worker may provide similar services (and goods) to any other person but the worker must notify ISG Management in writing before the worker does agree to provide similar services (or goods) to anyone else to an extent or in a manner that does or may conflict with the worker's notified availability to provide Services to ISG Management under the October 2015 Tickets of Work Agreement.
99. Under clause 2.4, when the worker (or the worker's Representative) accepts, or is deemed to have accepted, a Ticket of Work in accordance with clause 2.2 a binding contract between ISG Management and the worker will arise for the performance of, and payment for, the Work set out in the Ticket of Work comprising the terms set out in the Ticket of Work and the terms of the October 2015 Tickets of Work Agreement.
100. In respect of clause 3:
 - a. Under clause 3(a), ISG Management may provide training to the worker and the worker's Representatives from time to time, including training in respect of:
 - i. the performance of the Services to meet required Network specifications and features of Network specific products;
 - ii. Toughbook usage;
 - iii. Environmental protection and occupational health and safety; and
 - iv. such other aspects of the Services for which ISG Management, acting reasonably, considers to be related to the matters set out in clause 3(a)(i) to (iii).
 - b. Under clause 3(b), the worker, at the worker's own cost, will ensure that the worker's Representative will attend training provided from time to time by ISG Management, and ensure that the worker's Representatives are appropriately trained in the following:
 - i. occupational health and safety and environmental training as provided from time to time;
 - ii. training required to meet Network specifications and requirements; and
 - iii. initial training on Toughbook usage prior to commencement of Services.

- c. Under clause 3(c), ISG Management may at any time, at the worker's cost, and in a form reasonably required by ISG Management, request training records with respect to a worker's Representatives.
101. Under clause 4.1, the worker must carry out (and ensure that the worker's Representatives carry out) the Services and the Work under each Ticket of Work, including all things incidental to the Work and all things necessary to complete the Work, in accordance with the requirements of the Field Operations Manual and the ISG Management Policies and Procedures.
102. Under clause 4.3, without limiting clause 4.1, the worker must perform the Services and ensure that the worker's Representatives perform the Services:
 - a. within the time frames specified in the Ticket of Work (as may be varied from time to time in accordance with the October 2015 Tickets of Work Agreement);
 - b. so that when the Services are completed the result will be of high quality, free from Defects and suitable and able to be used for the purposes for which it is intended;
 - c. diligently, in a proper and tradesman like manner using best industry practices and to a standard reasonably expected of a highly skilled, competent and experienced person who performs work of a similar nature to the Services;
 - d. with due care and skill;
 - e. in compliance with, and so that each of the Services complies with the applicable KPIs;
 - f. in compliance with all Legislative Requirements;
 - g. to the reasonable satisfaction of ISG Management; and
 - h. in compliance with all safety and environmental requirements as set out in the October 2015 Tickets of Work Agreement.
103. In respect of clause 4.4:
 - a. Under clause 4.4(a), the worker must not subcontract any Services except with the prior written consent of ISG Management (which will not be unreasonably withheld or delayed).
 - b. Under clause 4.4(b), the worker may delegate the Services to the worker's employees without the prior written consent of ISG Management.
 - c. Under clause 4.4(c), the worker shall be liable to ISG Management for the acts, defaults and omissions of the worker's Representatives, and employees,

contractors and agents of those Representatives as if they were those of the worker.

- d. Under clause 4.4(e), ISG Management may, at any time, and at the cost of the worker, request such evidence as it reasonably requires to satisfy itself that the worker's Representatives (including any employees, contractors and agents of such Representatives) hold current right to work documentation, certificates, licences, accreditations, consents, permits, approvals, authorisations, determinations, required to perform the Services in accordance with Legislative Requirements and the October 2015 Tickets of Work Agreement.
 - e. Under clause 4.4(f), ISG Management may, at any time, notify the worker that in its reasonable opinion, a Representative (or an employee, contractor or agent of such Representative) must be removed from performance of the Services.
 - f. Under clause 4.4(h), the worker agrees immediately to comply with any request to replace any of the worker's Representatives and further agrees that the worker will not charge ISG Management for the time taken to bring the replacement Representative's specific knowledge of the October 2015 Tickets of Work Agreement and the Services up to the level of the person he/she replaces and ISG Management shall not be liable to the worker for any other costs associated with the departure of the Representative or the engagement and training of any replacement Representative.
 - g. Under clause 4.4(j), the worker acknowledges that ISG Management will not make any payments to the worker or to the worker's Representatives in respect of public holidays, annual leave, parental leave, personal/carer's leave, long service leave, superannuation, redundancy or termination payments or in respect of the Representative's termination.
104. Under clause 4.5, in carrying out any work, the worker must comply, and ensure that the worker's Representatives comply, with the field quality assurance requirements in accordance with the Agreement (including the Field Operations Manual).
105. In respect of clause 4.6;
- a. Under clause 4.6(a), on request, the worker must provide reasonable assistance to, and otherwise co-operate with, ISG Management and Telstra in relation to the implementation of any Business Continuity Plan.
 - b. Under clause 4.6(b), ISG Management may issue reasonable directions relating to any aspect of the Services.

- c. Under clause 4.6(c), the worker must comply with all reasonable directions given by ISG Management in accordance with the October 2015 Tickets of Work Agreement within the time specific in the direction or, if no time is specified, then as soon as reasonably practicable. Directions may be given orally but, if the worker requires it, must be confirmed by ISG Management in writing.
 - d. Under clause 4.6(d), a direction given by ISG Management does not relieve the worker from, or diminish, any obligation or liability of the worker under or in connection with the October 2015 Tickets of Work Agreement.
 - e. Under clause 4.6(e), if a direction given by ISG Management conflicts with the requirements of the October 2015 Tickets of Work Agreement, the worker must inform ISG Management orally and follow up in writing within 48 hours, giving details of why the direction is contrary to the October 2015 Tickets of Work Agreement, before complying with the direction.
 - f. Under clause 4.6(f), the worker must (and must ensure the worker's Representatives) co-operate, assist and provide information as reasonably required by ISG Management in relation to the Services or to assist ISG Management satisfy its obligations specified in the Ticket or Work for the Services, under the October 2015 Tickets of Work Agreement or otherwise in relation to the Services.
106. Under clause 4.7, the worker must keep ISG Management informed of the progress of the Services via the Toughbook (or other means notified by ISG Management) including by promptly notifying ISG Management of delays and events which are likely to cause delays and any failure or likely failure to Complete any Services by the due time of Completion.
107. In respect of clause 4.8:
- a. Under clause 4.8(b), at each Site, the worker must:
 - i. take all measures necessary to protect people and property;
 - ii. take all reasonable and practicable measures to prevent or minimise any environmental harm;
 - iii. avoid unnecessary interference with the passage of people and vehicles;
and
 - iv. prevent nuisance and unreasonable noise and interference.
 - b. Under clause 4.8(c), the worker must in respect of any Site or Services:

- i. comply with all directions or guidelines given by ISG Management or any other person as directed by ISG Management for the Services in relation to environmental and health and safety issues;
 - ii. comply with, and have in place adequate and appropriate systems for compliance with, all environmental and occupations health and safety legislation, regulations, codes of practice and standards applicable to the Site or Services; and
 - iii. report to ISG Management in writing all incidents, accidents, near-misses and hazards at the Site or relating to the Services or any other event or circumstance that occurs or becomes apparent whilst performing the Services that may affect the safety of any person or property.
- c. Under clause 4.8(d), the worker must demonstrate compliance with the requirements in clause 4.8(b) and (c) to the satisfaction of ISG Management, including by regularly (and whenever requested by ISG Management) providing evidence of measures taken to achieve compliance with them.
- d. Under clause 4.8(e), the worker must not do, or omit to do, anything which causes or contributes to any breach by ISG Management of any provisions of any applicable occupational health and safety legislation, regulations, codes of practice and standards, and must take all steps as are practicable to assist ISG Management in complying with these provisions.
- e. Under clause 4.8(f), the worker must co-operate and co-ordinate with all other persons working at each Site.

108. In respect of clause 7:

- a. Under clause 7(a), the worker:
 - i. warrants that the Work shall be free of Defects at Completion and throughout the Defects Liability Period; and
 - ii. must rectify, at no cost to ISG Management and if required to do so by ISG Management, all Defects in the Work arising during the Defects Liability Period.
- b. Under clause 7(b), if at any time before the expiry of the Defects Liability Period, ISG Management becomes aware of a Defect, then without limiting its rights under the October 2015 Tickets of Work Agreement (including any Performance Indicator Rights), ISG Management may:

- i. either rectify the Defect itself or arrange for others to rectify the Defect on its behalf without giving the worker notice or the first right to rectify the Defect; or
- ii. provide the worker with a written directions requiring the worker to rectify the Defect within the time specified in the direction. To avoid any doubt, such direction may take the form of a supplementary or additional Ticket of Work.

On receipt of a direction from ISG Management requiring the worker to do so, the worker must expeditiously and diligently rectify that Defect within the time stated in the direction.

- c. Under clause 7(c), if the worker fails to rectify the Defect within the time stated in the direction given under clause 7(b)(ii), then without limiting ISG Management's rights under the October 2015 Tickets of Work Agreement (including under any Performance Indicator Rights), ISG Management may either rectify the Defect itself or arrange for the Defect to be rectified on its behalf.
- d. Under clause 7(d), regardless of whether or not ISG Management has first given the worker the opportunity to rectify a Defect itself, all costs reasonably incurred by ISG Management to rectify the Defect will be a debt due and payable by the worker to ISG Management and subject to the set off provisions under the October 2015 Tickets of Work Agreement. In the event any Defect rectification conduct by or on behalf of ISG Management is temporary, ISG Management may then take either of the steps referred to in clause 7(b).

109. In respect of clause 8.2:

- a. Under clause 8.2(a), the worker must comply with all ISGM Policies and Procedures, the requirements set out in a Ticket of Work and the Field Operations Manual and must:
 - i. maintain a connected and working e-mail address and regularly monitor that email address;
 - ii. without limiting the other terms of the October 2015 Tickets of Work Agreement, ensure that the worker's Representatives wear appropriate safety apparel and utilise the appropriate personal safety equipment at all times and in accordance with the Field Operations Manual, the ISGM Policies and Procedures, and any other reasonable direction by ISG Management;

- iii. ensure that both the workers and the worker's Representatives have and maintain a connected and working mobile telephone;
 - iv. have and maintain all tools, equipment and machinery required to perform the Services (other than any tools, equipment or machinery required to be provided by ISG Management) and make sure that all tools, equipment and machinery used to perform the Services are maintained in good order and suitable for the performance of the Services for which they are intended;
 - v. permit ISG Management, at any time, to inspect certificates, licences, accreditations, consents, permits, approvals, authorisations, determinations required to be held by the worker and the worker's Representatives in accordance with Legislative Requirements, the October 2015 Tickets of Work Agreement and the Field Operations Manual;
 - vi. provide copies of certifications, registrations and licences to ISG Management that the worker requires in order to perform the worker's obligations under the October 2015 Tickets of Work Agreement;
 - vii. ensure that all electrical items used, incorporated or installed in connection with any Services are tested and tagged in accordance with the applicable Australian standards;
 - viii. ensure that the worker's vehicles are fit for purpose, well kept, clean and tidy and free from damage;
 - ix. ensure that vehicle registration, equipment certification and licences used in the performance of Services are maintained at all times during the Term; and
 - x. ensure that all certificates, licences, accreditations, consents, permits, approvals, authorisations, determinations required to be held by the worker and the worker's Representatives in accordance with the Legislative Requirements, the October 2015 Tickets of Work Agreement and the Field Operations Manual are maintained at all times during the Term.
- b. Under clause 8.2(b), the worker must ensure that the worker's Representatives wear identification when performing the Services and any activity in connection with the Services, and at no other times.

- c. Under clause 8.2(c), the worker must comply with the ISGM Behaviour Policies and any related requirements in the Field Operations Manual or the ISGM Policies and Procedures (or such other requirements as notified to the worker by ISG Management from time to time).
- d. Under clause 8.2(d), without limiting the terms of the October 2015 Tickets of Work Agreement, on Completion of Work, the worker must ensure that all rubbish generated as a result of the Services, surplus material, temporary works and construction plant is immediately removed from the Site.
- e. Under clause 8.2(e), the worker will ensure that the worker's Representatives do not service or wash any tools, equipment or machines in a street where it may be a source of annoyance to the public or cause damage to roads, drains, pavements or nature strips or the environment.
- f. Under clause 8.2(f), the worker must arrange storage of the worker's own vehicles, tools, machinery and equipment in such a manner that they do not create a nuisance or annoyance to the public. The worker must be particularly careful when parking at a Site that the worker's Representatives have approval from the relevant Site manager or customer. The costs of complying with this clause 8.2(f) will be the worker's responsibility.
- g. Under clause 8.2(g), the worker will be responsible for the security of the worker's own vehicles, tools, machinery and equipment.
- h. Under clause 8.2(h), when providing the Services, the worker will ensure that the worker's Representatives carry:
 - i. identification cards;
 - ii. a letter of introduction from Telstra confirming that the nominated person is authorised to perform the specified work on the Telstra Network; and
 - iii. a letter of introduction from ISG Management, confirming that the nominated person is an authorised Representative of a subcontractor of ISG Management and is authorised and trained to perform the Services requested.
- i. Under clause 8.2(i), the worker must ensure that the items referred to in clause 8.2(h) are returned to ISG Management, along with ISG Management and Telstra Inputs and Materials, on demand or in the event that:
 - i. Tickets of Work are no longer being issued to the worker or the relevant Representative;

- ii. the October 2015 Tickets of Work Agreement has been terminated by ISG Management;
 - iii. the worker or worker's Representative otherwise ceases involvement in the provision of the Services; or
 - iv. a request is made by ISG Management for any reason.
- j. Under clause 8.2(j), the worker must provide appropriate traffic control structures, resources and associated equipment around a Services Site.
- k. Under clause 8.2(k), the worker consents to ISG Management carrying out such checks with the police of any relevant jurisdiction as ISG Management may require in respect of the worker and the worker's Representatives and will procure the signing of all documents and the doing of all other things that are necessary to allow ISG Management to carry out and obtain the results of such checks at the worker's cost (such cost to be a debt due and payable by the worker and subject to the off-set provision in the October 2015 Tickets of Work Agreement). The worker must obtain a correspondence written consent from all the worker's Representatives in favour of ISG Management.
- l. Under clause 8.2(p), the worker acknowledges, and must comply (and must ensure that the worker's Representatives comply) with, the Telstra Supplier Code of Conduct ("*Code*"). The worker warrants that the worker meets the minimum standards in relation to labour and human rights, health and safety, environment, ethical dealings and supply chain diversity to the Code and maintains documentation appropriate to the scope and scale of the worker's own business, sufficient to satisfy the requirement that all reasonable steps have been taken to comply with the Code. This documentation will be made available to ISG Management upon 24 hours' written notice.

110. In respect of clause 8.3:

- a. Under clause 8.3(a), when the worker is performing the Services, the worker must ensure that the worker's Representatives comply at all times with:
 - i. the uniform requirements that are set out in the Field Operations Manual or as otherwise notified to the worker from time to time;
 - ii. the vehicle branding requirements that are set out in the Field Operations Manual or as otherwise notified to the worker from time to time.
- b. Under clause 8.3(b), without prejudice to any right that ISG Management may have under the October 2015 Tickets of Work Agreement or generally, uniforms and vehicle co-branding elements will be replaced by ISG Management (in ISG

Management's absolute discretion) as and when required where such replacement is considered necessary as a result of fair wear and tear or any other circumstance.

111. In respect of clause 9:

- a. Under clause 9(a), the worker acknowledges and agrees that ISG Management's compliance, and its ability to comply with its obligations under or in connection with the Head Agreement, including its ability to achieve or comply with Key Performance Indicators and procedures and processes under it, may be dependent on the worker's performance under and compliance with, the October 2015 Tickets of Work Agreement, and that accordingly a breach of the October 2015 Tickets of Work Agreement (including any failure by the worker, or any Service provide by the worker, to comply with any KPI) can give rise to, or contribute to, a breach of the Head Agreement by ISG Management.
- b. Under clause 9(b), without limiting the worker's obligations under the October 2015 Tickets of Work Agreement, the worker acknowledges and agrees that:
 - i. in performing the Services, the worker must comply with and must ensure that the Services comply with each relevant KPI specified for the relevant Services; and
 - ii. without limiting ISG Management's rights under the October 2015 Tickets of Work Agreement:
 1. where the worker or any Service or Works fails to comply with any KPI, ISG Management will be entitled to exercise the relevant Performance Indicator Right (as specified in the Field Operations Manual or as modified or replaced from time to time by ISG Management by written notice to the worker) against the worker; and
 2. to the extent that ISG Management fails to meet any obligation KPI under the Head Agreement (including any obligation to meet or exceed a key performance indicator under the Head Agreement), and that failure can be attributed directly to (or is contributed to by) any failure of the worker or the worker's Representative or any Service or Works to comply with the requirements of the October 2015 Tickets of Work Agreement (including any KPI), the worker will indemnify ISG Management and keep it indemnified from, and ISG Management will be entitled to recover any relevant loss from the worker (including any

loss arising from ISG Management being required to rectify the breach itself or engage another party to do so) and, where ISG Management's failure to meet its KPI was partly caused by the worker, ISG Management will be entitled to recover from the worker that part of its loss from the worker that is reasonably attributable to the worker's default

3. the worker acknowledges and agrees that the Performance Indicator Rights are a reasonable pre-estimate of the loss and damage that ISG Management is likely to suffer as a result of any failure by the Supplier or any Service to comply with the KPIs, but are not ISG Management's only remedy in relation to any such failure.

112. In respect of clause 10.2:

- a. Under clause 10.2(a), ISG Management will establish and operate the governance forums and meetings to comply with the requirement of the October 2015 Tickets of Work Agreement.
- b. Under clause 10.2(b), the worker must ensure that the worker's Representatives attend such meetings at the worker's own cost and attendance may be required via scheduled meetings within designated facilities and/or via an organised conference call.

113. Under clause 10.3(d), in accessing any place at which Services will be carried out ("*Site*"), the worker must:

- i. at all times comply with all Legislative Requirements, the October 2015 Tickets of Work Agreement and any agreements, codes or practice or memoranda of understanding entered into by ISG Management or Telstra with third parties, as they are updated from time to time and notified to the worker; and
- ii. only use and control such a Site to such an extent as is necessary to enable the worker to perform the October 2015 Tickets of Work Agreement and not for any purpose not connected with the performance of the October 2015 Tickets of Work Agreement (including camping or residential purposes), unless approved by ISG Management.

114. In respect of clause 10.4:

- a. Under clause 10.4(b)(ii), the worker warrants that at the date of clause 10.4 coming into effect, the worker complies with the *Building Code 2013*.

- b. Under clause 10.4(b)(iii), the worker warrants that the worker is not subject to any Sanctions or investigations which prevent or restrict the worker entering into or performing the October 2015 Tickets of Work Agreement, and must, at the worker's cost, comply (and ensure the worker's representatives comply) with the Code
- c. Under clause 10.4(b)(v), the worker must, at the worker's cost:
 - i. provide all information and assistance, and take action, as reasonably required by ISG Management, in order for ISG Management and Telstra to comply with the Code;
 - ii. promptly notify ISG Management of any correspondence, query or communication relevant to a Work Order received or given by the worker from the Code Monitoring Group, the Minister for Employment, the Director of Fair Work Building and Construction, the Fair Work Building Industry Inspectorate or other relevant authority under the Code;
 - iii. at all times maintain adequate records of the compliance by the worker and of the worker's consultants, subcontractors with the Code and, where requested by ISG Management, make those records available to ISG Management, Telstra (or any person authorised by ISG Management or Telstra including an authorised representative of a relevant authority) to inspect and copy, subject to such information being held and treated as Confidential Information by any such person;
 - iv. promptly notify ISG Management of any threatened or actual industrial action connected with or relating to the worker, the Site or the worker's other sites or works; and
 - v. promptly notify ISG Management if the worker believes that any provision of the October 2015 Tickets of Work Agreement is inconsistent or non-compliant with the Code or Guidelines.
- d. Under clause 10.4(g), without limitation to ISG Management's audit rights under the October 2015 Tickets of Work Agreement or rights under clause 10.4, the worker agrees to provide (and require the worker's subcontractors provide) ISG Management, Telstra or any person authorised by ISG Management, Telstra or the Code, including a person occupying a position in the Fair Work Building Industry Inspectorate, with access to:
 - i. inspect any work, material, machinery, appliance, article or facility;
 - ii. inspect and copy any record relevant to the Work; and

iii. interview any person,

as is necessary to demonstrate the worker's compliance with the Code in relation to any Ticket of Work.

115. In respect of clause 10.5:

- a. Under clause 10.5(a), subject to clause 10.5, ISG Management may, by written notice to the worker, amend the Field Operations Manual and any applicable ISGM Policies and Procedures.
- b. Under clause 10.5(b), ISG Management will notify the worker of any amendment to the Field Operations Manual or any of the ISGM Policies and Procedures by email, attaching a copy of the amended document, or providing a link to the amended document if the document is made available through ISG Management's hosted Contractor Management System.
- c. Under clause 10.5(c), where ISG Management notifies the worker of the issue of an amended Field Operations Manual in accordance with clause 10.5(b), the amended document will be incorporated into the October 2015 Tickets of Work Agreement in place of the original version with effect from the date specified in ISG Management's notice, or if no effective date is specified, seven days after the date of ISG Management's notice.
- d. Under clause 10.5(d), where ISG Management notifies the worker of the issue of amended ISGM Policies and Procedures, the worker must ensure that the worker complies with, and the worker's Representatives comply with, the amended ISGM Policy or Procedure in place of the original version with effect from the date specified in ISG Management's notice, or if no effective date is specified, seven days after the of ISG Management's notice.
- e. Under clause 10.5(e), without limiting the generality of clause 10.5, but subject to clause 10.5(f), amendments made by ISG Management under clause 10.5 may include amendments which:
 - i. reduce, increase, or otherwise update the scope of Telstra Issue Material and Telstra Inputs contemplated by clause 5;
 - ii. are necessary for clarification;
 - iii. recognise or incorporate the adoption of alternative operating methodologies;
 - iv. are necessary to comply with the introduction of or change in any applicable law; and

- v. are necessary to accommodate a direction under or modification to the Head Agreement.
 - f. Under clause 10.5(f), ISG Management's right to amend documents which form part of the October 2015 Tickets of Work Agreement under clause 10.5 does not apply to the amendment of:
 - i. the rates payable to the worker, which may only be amended in accordance with clause 12.5; or
 - ii. the amendment of the SOR Descriptions in a manner that materially increases the amount of work required of the worker under any SOR Description.
116. Under clause 11.1, the worker must:
- a. commence Work as required under the applicable Ticket of Work;
 - b. bring the Work to Completion by the Scheduled Time for Completion of the Work;
 - c. otherwise proceed with the Work with due expedition and without delay; and
 - d. comply with the scheduling requirements set out in the Field Operations Manual.
117. Under clause 11.2, the worker must notify ISG Management through the applicable work management systems of the Completion of any Work promptly after the Work has reached Completion by:
- a. the worker's Representatives giving notice of the Completion via the Toughbook; or
 - b. where required by ISG Management, utilising other approved communication methods; and
 - c. comply with the scheduling requirements set out in the Field Operations Manual or as otherwise notified by ISG Management.
118. Under clause 12.1, subject to clause 11, and in accordance with the processes detailed in the Field Operations Manual, after any Work specified in a Ticket of Work has reached Completion:
- a. the worker is entitled to be paid by ISG Management, for the performance of the Work and all of the worker's obligations in respect of the Work under or in connection with the October 2015 Tickets of Work Agreement, the amount ascertained by applying the Rates to the applicable Work properly performed; and

- b. the amount is payable within 7 days after the date on which the applicable tax invoice is given by ISG Management to the worker and accepted by the worker in accordance with clause 12.2 (or such other period as the parties may agree in writing).

119. In respect of clause 12.2:

- a. Under clause 12.2(a), after Completion of any Work or Services, ISG Management will prepare and give to the worker a recipient created tax invoice (“*RCTI*”) for the amount payable for the Services.
- b. Under clause 12.2(b), ISG Management will aggregate and issue *RCTI*s to the worker on a weekly basis.
- c. Under clause 12.2(c), where the worker receives a *RCTI* from ISG Management for an amount payable for any Work or Services, the worker must notify ISG Management whether or not the worker accepts the amount set out in the *RCTI* within 24 hours of receiving the *RCTI*.
- d. Under clause 12.2(d), the worker must comply with the *RCTI* process as set out in the Field Operations Manual.
- e. Under clause 12.2(e), if the worker disputes the details of the *RCTI*, a *RCTI* dispute exists and the worker must follow the *RCTI* dispute resolution process set out in the Field Operations Manual.
- f. Under clause 12.2(f), at all relevant times, the worker must comply with the payment processes set out in clause 12.
- g. Under clause 12.2(g), the worker must monitor and validate the worker’s activities in respect of the Services via the Toughbook or via other methods specified by ISG Management from time to time. If the worker does not comply with these requirements, ISG Management may:
 - i. elect to process the *RCTI* as though the worker has approved the *RCTI* in accordance with the Field Operations Manual; or
 - ii. withhold payments to the worker until such time as the worker complies with the *RCTI* process in accordance with the Field Operations Manual.
- h. Under clause 12.2(h), if the worker fails to comply with the *RCTI* process set out in clause 12, the Team Manager will notify the worker of ISG Management’s decision under clause 12.2(g)(i) and 12.2(g)(ii) and the next steps for resolution.
- i. Under clause 12.2(i), the worker shall not dispute or make any claim whatsoever in relation to *RCTI* amounts or payments more than 3 calendar months after the

RCTI amounts are paid by ISG Management. Once a period of 3 months has expired after the payment of a RCTI, the worker will be deemed to have accepted the amount specified in the RCTI as being the entire amount payable to the worker for or in respect of the Work or Services referred to in the RCTI.

120. In respect of clause 12.3:

- a. Under clause 12.3(a), a payment made in relation to the October 2015 Tickets of Work Agreement is a payment on account only and neither the issue of a RCTI nor the payment of any amount by ISG Management in relation to the October 2015 Tickets of Work Agreement will not be evidence of the value of any work or an admission of liability or an admission that any work is satisfactory.
- b. Under clause 12.3(b), in circumstances where ISG Management disputes the worker's entitlement to amounts specified in an invoice (including a RCTI) that has already been paid, ISG Management will notify the worker and will provide the worker with a reasonable opportunity to provide additional information in support of the payment. If no supporting evidence is provided and/or the evidence provided does not, in ISG Management's reasonable opinion, support the payment made, ISG Management may at its option, and in addition to any other remedies it might have, set off the disputed payment in accordance with clause 29.5 or may, on written notice to the worker, require the worker to repay the disputed payment within 21 days of the date of the notice.

121. In respect of clause 12.4:

- a. Under clause 12.4(a), the maximum rates for calculating the amounts which ISG Management will pay the worker under the October 2015 Tickets of Work Agreement are set out in the schedule of rates contained in the Field Operations Manual (the "*Reimbursable Schedule of Rates*"). The description for each SOR item is set out in more detail in the SOR descriptions section of the Field Operations Manual (the "*SOR Description*").
- b. Under clause 12.4(b), the worker agrees that the SOR Description contains items that the worker may not be able to claim, as at the Effective Date of the October 2015 Tickets of Work Agreement, and the worker can only make a claim in respect of any Ticket of Work which is identified and noted in the Reimbursable Rates set out in the Field Operations Manual.
- c. Under clause 12.4(c), for the avoidance of doubt, the worker can only claim for work using the rates as detailed in the SOR Description and the Reimbursable Rate Schedule in the Field Operations Manual.

122. In respect of clause 12.5:
- a. Under clause 12.5(a), ISG Management may adjust any rate within the SOR (including the introduction or removal of any Rate category) at its discretion to reflect any rate adjustment (including the introduction or removal of any rate category) directed by Telstra under the Head Agreement. ISG Management will provide written notice to the worker of any adjustment in Rates (including the introduction or removal of any rate category) in a rate adjustment notice. ISG Management will use reasonable endeavours to provide the rate adjustment notice at least 10 Business Days prior to any adjustment of the Rates taking place. Once the rate adjustment notice period has expired, the change in the Rates will be in force and the corresponding adjusted SOR will apply.
 - b. Under clause 12.5(b), without limiting clause 12.5(a), ISG Management will, on an annual basis, or at such other time as ISG Management considers reasonable under clause 12.5(c), review the SOR. Where ISG Management has conducted an audit and taken into account the results of this audit including prevailing market conditions, ISG Management may make adjustments to the SOR with the consent of the worker, such consent not to be unreasonably withheld or delayed. Any rate adjustment will follow the process set out in clause 12.5(a).
 - c. Under clause 12.5(c), where ISG Management reasonably considers that relevant market conditions require an urgent and expedited review of the SOR, ISG Management may require the worker to provide additional information to support.
 - d. Under clause 12.5(d), nothing in clause 12.5 requires ISG Management to change the SOR.
123. Under clause 14, the worker represents and warrants to ISG Management as at the date of the October 2015 Tickets of Work Agreement and at all times during the Term, that:
- a. the worker is incorporated as a proprietary company and has an Australian Business Number;
 - b. the worker is entitled to, and has the right and power to, supply the Services to ISG Management;
 - c. the performance of all Services will comply with the Field Operations Manual and the October 2015 Tickets of Work Agreement;
 - d. the worker's Representatives will at all times be suitably skilled, qualified and experienced and will, together with the worker, exercise due care and skill in performing the October 2015 Tickets of Work Agreement;

- e. the worker's Representatives are aware of, and will comply with, the requirements and obligations in the October 2015 Tickets of Work Agreement, Tickets of Work and the Field Operations Manual ;
- f. to the best of the worker's knowledge, a Conflict of Interest or risk of Conflict of Interest does not exist and is not likely to arise in relation to the performance of the worker's obligations under the October 2015 Tickets of Work Agreement;
- g. the worker will, and will make sure that the worker's Representatives, comply with all Relevant Laws throughout the Term;
- h. the Services and all Work will not infringe the rights, including any Intellectual Property Rights of any person;
- i. the worker fully complies, and has always fully complied, and will continue to fully comply with the worker's statutory and contractual obligations in relation to the worker's Representatives;
- j. the worker is not aware of anything which would prevent the worker from obtaining, or being entitled to make a claim under, an insurance policy required under the October 2015 Tickets of Work Agreement;
- k. the worker has obtained independent professional advice (including legal and financial advice) in relation to the October 2015 Tickets of Work Agreement and all insurances required in relation to the worker, including advice as to the sufficiency and level of such insurances;
- l. the Representatives are allowed to work in Australia, and the worker will take active steps to monitor compliance with any visa conditions. The worker acknowledges that the worker is prohibited under the *Migration Act 1958* to allow or refer an illegal worker to work;
- m. the worker will comply with all Relevant Laws in relation to the engagement or employment of the worker's Representatives including, as applicable, the *Fair Work Act 2009*, any relevant industrial instrument, and the Code.

124. In respect of clause 18:

- a. Under clause 18.1(a), the worker must, as a minimum, comply with the October 2015 Tickets of Work Agreement, all Legal Requirements and all ISGM Policies and Procedures relating to health and safety and the environment which are in any way applicable to the performance or non-performance of any of the worker's obligations under the October 2015 Tickets of Work Agreement, including the HSE requirements set out in the Field Operations Manual.

- b. Under clause 18.1(b), the worker must ensure that the worker's Representatives are at all times appropriately inducted, trained and supervised in relation to (i) the risks associated with the supply of the Services; (ii) the procedures they need to follow to manage those risks and (iii) their HSE obligations, including the Relevant Laws.
- c. Under clause 18.3, without limiting any other audit or inspection rights granted to ISG Management under the October 2015 Tickets of Work Agreement, the worker must permit ISG Management, Telstra and their respective Representatives to enter any Site or worker vehicle at any reasonable time, without notice, to review, inspect, audit compliance or otherwise observe the quality systems, HSE management systems, work practices and procedures and general compliance applicable to the worker's performance of the October 2015 Tickets of Work Agreement.

125. In respect of clause 19:

- a. Under clause 19.1(a), during the term of the October 2015 Tickets of Work Agreement and for a period of 7 years after the expiry or termination of the October 2015 Tickets of Work Agreement, the worker must:
 - i. keep full and proper books of accounts and records relating to the performance of Services obligations under the October 2015 Tickets of Work Agreement, including any relevant information necessary to validate such accounts and records ("*Records*"). Such Records must include complete and accurate details of amounts paid and payable to the worker, provided that, for clarification, the scope of Records must be sufficient to enable ISG Management or its Representatives to confirm the extent to which the worker has complied with the worker's obligations under this Agreement;
 - ii. at ISG Management's request, produce for inspection or provide ISG Management with a copy of the Records;
 - iii. give ISG Management and its Representatives access, and use of, the facilities, data, records, reports and information relating to the Services and any other aspects of the October 2015 Tickets of Work Agreement;
 - iv. allow ISG Management and its ISGM Representatives entry to any premises occupied by the worker within 24 hours written notice at all reasonable times to inspect, audit and take copies of the Records and otherwise inspect the worker's performance of the worker's obligations under the October 2015 Tickets of Work Agreement;

- v. [sic] procedures and operational processes including Telstra Issue Material requirements and verification of any amounts for which the worker is liable under the October 2015 Tickets of Work Agreement;
 - vi. comply with any reasonable directions of ISG Management relating to ISG Management's or any Government Authority's access to and inspection of premises, data, records, accounts, financial material and information in the possession or under the control of the worker and/or the worker's Representatives and which relate to the performance of the Services; and
 - vii. allow any third party nominated by ISG Management and ISGM Representatives and any relevant Government Authority access to the Records for purposes connected with the October 2015 Tickets of Work Agreement or the Head Agreement.
- b. Under clause 19.1(b), without limiting any other obligation of the worker with respect to return of Confidential Information or Telstra Data, at least 60 days prior to the expiry of the seven year period referred to in clause 19.1(a), the worker must provide to ISG Management a detailed register of all Records. ISG Management may subsequently request a copy of any Records as required by ISG Management in order to fulfil its obligations to Telstra and the worker must comply with any such request within 5 Business Days of such request. The worker must not delete or destroy any Records prior to receiving written confirmation from ISG Management that the worker has satisfactorily complied with its obligations under this clause 19.1(b) (confirmation of which will not be unreasonably withheld or delayed).
- c. Under clause 19.2(a), each party will bear its own internal costs, and subject to clause 19.2(b), ISG Management will be responsible for meeting the costs of any third party auditor, nominee or similar arising from any exercise by ISG Management of its rights under clause 19.
- d. Under clause 19.2(b), where the results of any exercise by ISG Management of its rights under this clause establishes that the worker has been overpaid by ISG Management or has identified a material breach of the October 2015 Tickets of Work Agreement by the worker (excluding, for clarification, any failure to meet any KPIs), the worker will be responsible for all costs of ISG Management arising from the audit, review of records or similar, including third party auditor or nominee costs (and, where it has been established that the worker has been

overpaid by ISG Management, the worker must immediately pay those costs to ISG Management as well as the amount of the overpayment).

- e. Under clause 19.3(a), the worker acknowledges and agrees that ISG Management and Telstra may monitor by remote electronic access the use by the worker of the Toughbook in the provision of the Services and the worker hereby consents to, and must provide ISG Management with all reasonable assistance to establish and facilitate, such remote access.
- f. Under clause 19.3(b), ISG Management and Telstra may monitor the worker's usage of the Toughbook and may provide the worker with details of the worker's electronic usage, whether this usage is covered or not covered under the usage policy set out in the Field Operations Manual.
- g. Under clause 19.4, to the extent permitted by applicable laws, the worker gives (and must procure that the worker's Representatives give) all approvals and consents required to be given by applicable laws to give effect to ISG Management's audit, access or inspection rights contained in the 2013 Tickets of Work Agreement.

126. In respect of clause 21:

- a. Under clause 21.1(a), each party must, during the term and after the expiry or termination of the October 2015 Tickets of Work Agreement:
 - i. take all action reasonably necessary to maintain the confidentiality of the other party's Confidential Information;
 - ii. not disclose the other party's Confidential Information to any person except as permitted under clause 21.2; and
 - iii. use or reproduce the other party's Confidential Information only for the purposes of the October 2015 Tickets of Work Agreement.
- b. Under clause 21.1(b), the worker acknowledges that ISG Management may from time to time specify certain requirements in addition to those requirements set out in clause 21.1(a) in respect of access to and use of Confidential Information of any Government Authority or Confidential Information of Telstra. This may include a requirement for recipients of such Confidential Information to provide written undertakings to ISG Management, Telstra, or any Government Authority. Where ISG Management specifies such additional requirements, the worker must comply with those additional requirements with respect to access to and use of that Confidential Information.

- c. Under clause 21.2(b), ISG Management may disclose Confidential Information of the worker to the worker's customers where required for the purpose of re-selling Services, to ensure the worker's customers receive the benefit of the Services, or in using Services to provide other goods or services to them or to comply with the worker's agreement with the customer (including the Head Contract).
- 127. In respect of clause 22:
 - a. Under clause 22(a), the worker must ensure that the worker fully complies with all Legislative Requirements and ISG Management Policies and Procedures that apply to the worker or the Services being performed by the worker, including by providing appropriate training to the worker's Representatives and implementing compliance and risk management procedures.
 - b. Under clause 22(c), ISG Management may, prior to or at any time during the term of the October 2015 Tickets of Work Agreement, require the worker to provide documentation, including declaration/s in a form required by ISG Management, evidencing the worker's compliance with clause 22 and any procedures or practices the worker has put in place to ensure compliance with clause 22.
- 128. Under clause 25, the worker acknowledges and agrees that if Telstra exercises its rights to defer or suspend the provision of services under the Head Agreement, ISG Management will be entitled to defer or suspend any Services or Work under the October 2015 Tickets of Work Agreement and neither ISG Management nor Telstra will be liable to the worker for any loss, damage, cost or expense suffered or incurred by the worker as a result of the deferral or suspension.
- 129. Under clause 26.1(a), ISG Management may terminate the October 2015 Tickets of Work Agreement in whole or in part at any time without cause and for any or no reason by giving the worker not less than 7 days' notice.
- 130. Under clause 26.2, ISG Management may, without prejudice to any other rights and remedies it may have under the October 2015 Tickets of Work Agreement or at law, immediately terminate the October 2015 Tickets of Work Agreement in whole or in part by notice in writing to the worker, if:
 - a. the worker:
 - i. fails to perform any Work in accordance with the October 2015 Tickets of Work Agreement; or
 - ii. commits a material breach of any of the worker's obligations under the October 2015 Tickets of Work Agreement,

and if the failure or breach (as the case may be) is capable of remedy, the worker has failed to rectify that failure or breach (as the case may be) within 15 Business Days after receipt of written notice from ISG Management or any further time allowed by ISG Management;

- b. the worker commits a material breach of any of the worker's obligations under the October 2015 Tickets of Work Agreement and the breach is not capable of remedy; or
- c. an Insolvency Event occurs in respect of the worker.

131. In respect of clause 26.3:

- a. Under clause 26.3(a), if ISG Management fails to pay to the worker an amount due and payable to the worker under the October 2015 Tickets of Work Agreement when required to do so, and fails to remedy the breach within 45 days from receipt of a written notice of default from the worker, the October 2015 Tickets of Work Agreement may be terminated by the worker giving a written notice of termination to ISG Management.
- b. Under clause 26.3(b), the worker may after 12 months from the date of the October 2015 Tickets of Work Agreement terminate the October 2015 Tickets of Work Agreement for any reason by giving written notice of termination to ISG Management, and termination will be effective 30 days after the date the termination notice is given to ISG Management or any later date of termination stated in the notice.
- c. Under clause 26.3(c), the worker acknowledges and agrees that the worker is not entitled to terminate except in accordance with clause 26.3.

132. Under clause 26.5(b), the worker acknowledges that if Telstra exercises its rights to terminate the Head Agreement, neither ISG Management nor Telstra will be liable to the worker for any loss, damage, cost or expense suffered or incurred by the worker as a result of the termination, except to the extent, if any, expressly set out in the October 2015 Tickets of Work Agreement.

December 2015 Tickets of Work Agreement

132A. In around December 2015, ISG Management entered into agreements with workers entitled "*Tickets of Work Standing Offer Agreement*" (**December 2015 Tickets of Work Agreement**).

Particulars

- (i) The December 2015 Tickets of Work Agreement was in writing.

- (ii) In respect of the proposition that the December 2015 Tickets of Work Agreement was entered into as between the Respondent and the workers (as defined in paragraph 1A), the Applicant repeats particular (ii) of paragraph 13 above (save that it should be read as referring to the December 2015 Tickets of Work Agreement).

132B. The December 2015 Tickets of Work Agreement was, in substance, the same as the October 2015 Tickets of Work Agreement, save that:

- a. the December 2015 Tickets of Work Agreement contained a new clause 7(a)(iii) (concerned with the extent of the workers' warranty for defects);
- b. the December 2015 Tickets of Work Agreement contained an amended clause 12.5(c) and a new clause 12.5(d) (concerned with review of the Schedule of Rates);
- c. the December 2015 Tickets of Work Agreement contained a new clause 18.3(c)(iii)(a) and (b) (concerned with the worker's rights against ISGM), and an amended clause 18.4(a)(iv) and (v) (concerned with clean up of contamination); and
- d. the December 2015 Tickets of Work Agreement contained a new clause 24.6 (concerned with disputes over KPIs and payments).

February 2016 Tickets of Work Agreement

132C. In around February 2016, ISG Management entered into agreements with workers entitled "*Tickets of Work Standing Offer Agreement*" (***February 2016 Tickets of Work Agreement***).

Particulars

- (i) The February 2016 Tickets of Work Agreement was in writing.
- (ii) In respect of the proposition that the February 2016 Tickets of Work Agreement was entered into as between the Respondent and the workers (as defined in paragraph 1A), the Applicant repeats particular (ii) of paragraph 13 above (save that it should be read as referring to the February 2016 Tickets of Work Agreement).

132D. The February 2016 Tickets of Work Agreement was, in substance, the same as the December 2015 Tickets of Work Agreement, save that it contained a definition of "*Expiry Date*" in clause 30.1.

July 2016 Tickets of Work Agreement

132E. In around July 2016, ISG Management entered into agreements with workers entitled “Tickets of Work Standing Offer Agreement” (July 2016 Tickets of Work Agreement).

Particulars

- (i) The July 2016 Tickets of Work Agreement was in writing.
- (ii) In respect of the proposition that the July 2016 Tickets of Work Agreement was entered into as between the Respondent and the workers (as defined in paragraph 1A), the Applicant repeats particular (ii) of paragraph 13 above (save that it should be read as referring to the July 2016 Tickets of Work Agreement).

132F. The July 2016 Tickets of Work Agreement was, in substance, the same as the February 2016 Tickets of Work Agreement, save that:

- a. the July 2016 Tickets of Work Agreement set out a different number for the Field Operations Manual in clause 1.3; and
- b. the July 2016 Tickets of Work Agreement had an amended execution clause.

2015 Field Operations Manual

133. In around October 2015, ISG Management issued to workers, including the Applicant, a document entitled the “*Field Operations Manual Installation & Maintenance*” (**2015 Field Operations Manual**).

Particulars

- (i) The 2015 Field Operations Manual was in writing.
- (ii) ISG Management issued the 2015 Field Operations to the Applicant by sending it to him electronically.
- (iii) That the 2015 Field Operations Manual was issued to workers is to be inferred from the fact that the workers were required to comply with it, as pleaded in paragraph 133A below.

133A. Workers were required to comply with the 2015 Field Operations Manual.

Particulars

The Applicant repeats paragraphs 134(a) and 140 below.

134. Under clause 4.1:

- a. the worker must comply with, and ensure the worker’s Representatives are aware of, and comply with, the requirements of the 2015 Field Operations Manual and all documents referred to in it.

- b. The worker must ensure that the worker's Representatives have complete and up to date training and accreditations as required and notified by ISG Management from time to time.
135. Under clause 4.4:
- a. Services performed pursuant to a Ticket of Work are performed 7.00am to 7.00pm in the applicable area each day of the week (including public holidays).
 - b. The worker may be assigned Tickets of Work to supply Services outside the above hours where required by ISG Management and/or when urgent action is necessary in accordance with HSE management or emergency requirements.
136. Under clause 4.5:
- a. The worker agrees that ISG Management is responsible for:
 - i. collecting and collating all data for the implementation of KPIs;
 - ii. applying that data to the criteria stipulated in the KPIs; and
 - iii. providing KPI data to the worker or the worker's Representatives.
 - b. No data other than that obtained from Telstra's systems will be used in the application of the KPIs.
 - c. The worker acknowledges and agrees that KPIs may be varied by ISG Management in its sole discretion and notified to the worker.
137. Under clause 4.6:
- a. The worker accepts that ISG Management may in its absolute discretion vary the method and technology through which the work is issued. The worker acknowledges that ISG Management may vary existing electronic services or other processes and practices and introduce new electronic services or other processes and practices (including for issuing Tickets of Work and invoices and payment of invoices) at any time.
 - b. If ISG Management identifies that an incorrect rate under the SOR has been claimed by the worker, ISG Management may investigate and determine the extent of the incorrect claim and recover any incorrect amounts as a debt due by the Subcontractor to the worker (able to be offset under the off-set provisions in the Agreement).
138. Under clause 5.1:
- a. Section 5 sets out the procedures and practices the worker must follow in performing the Services under this Agreement ("*Operational Procedures*"). The

worker must ensure that the worker's Representatives follow the Operational Procedures under this Agreement.

- b. The Operational Procedures provide minimum technical specifications and provide technical guidance which reflects the established procedures and practices utilised within Telstra's organisation for the performance of I&M Services & other network maintenance activities on the Network.

139. In respect of clause 5.2:

- a. Under clause 5.2.1, without limiting the terms of the Agreement or the worker's responsibilities under it, the worker must ensure that the worker's Representatives wear appropriate safety apparel and utilise the appropriate personal safety equipment at all times.
- b. Under clause 5.2.2:
 - i. All equipment, machinery and vehicles used to perform the Services shall be maintained by the worker in good order and be suitable for the performance of the Services for which they are intended. The worker will ensure that vehicle registration, equipment certification and licences remain current at all times.
 - ii. The worker will ensure that all equipment shall be compliant with the relevant Australian Standards, is used by the worker's Representatives in compliance with the manufacturer's specifications and instructions and the relevant Legislative Requirements.
 - iii. ISG Management may, at any time, and at the worker's costs, require the worker to provide all information and documentation necessary to satisfy itself that the above obligations are being met by the worker and the worker's Representatives.
- c. Under clause 5.2.4, the worker must ensure that the worker's Representatives do not service or wash any tools, equipment or machines in a street where it may be a source of annoyance to the public or cause damage to pavements or nature strips.
- d. Under clause 5.2.5, without limiting the terms of the Agreement or the worker's responsibilities under it, on completion of work at each Site, the worker must ensure that all rubbish generated as a result of the Service activity, surplus material, temporary works and construction plant shall be immediately removed from the Site by the worker's Representatives. The worker must also ensure that Sites shall be left in a clean, neat and tidy condition, equivalent to its condition

before the Ticket of Work began; and Customer, Authority or private rubbish bins are not used for waste disposal. Only approved commercial disposal facilities are to be used.

- e. Under clause 5.2.6:
 - i. Should residents close to a Site where any Services are performed or other members of the public express any concerns over the worker's operations, the worker shall advise ISG Management immediately and outline a plan for rectifying the situation. Under no circumstances shall the worker or its Representatives aggravate residents or other members of the public or provide media comment in connection with the performance of the Services or customers.
 - ii. To the extent that such communications relate to the performance of Services under the Agreement, the worker or the worker's Representatives may not write letters to, nor give interviews with, any section of the media in any way referring to ISG Management or Telstra without the written prior permission of ISG Management.
 - iii. Full details of any inquiry received must be documented by the worker and immediately reported to a Team Manager or a delegate.
 - iv. Where a statement is sought in any form by the media, it shall be referred to the ISGM GM Communications (or a delegate).
140. Under clause 5.4, the worker must ensure that the worker's Representatives perform Tickets of Work in accordance with the Agreement, the 2015 Field Operations Manual, all KPIs and all Legislative Requirements.
141. Under clause 6.1:
- a. The worker will perform the Services according to the requirements of this Agreement and shall interact with various Telstra work groups to complete each Ticket of Work.
 - b. The worker shall be responsible for:
 - i. managing Tickets of Work from the time the task is "assigned" through to completion;
 - ii. ensuring each Ticket of Work is reviewed prior to accepting a Ticket of Work to ensure the task meets activities covered under these Operational Procedures;

- iii. ensuring work is performed in a way that does not cause any unnecessary interruptions to the services of any use of the Network;
 - iv. strictly complying with all required procedures in relation to any interruptions to special Services;
 - v. ensuring all information is updated in the WMS in “real time” to accurately reflect the current status of a Ticket of Work;
 - vi. ensuring only completed Tickets of Work are registered as completed immediately at the end of each job in WMS, with all the required details and information;
 - vii. ensuring all interactions with the customer meets expectations;
 - viii. ensuring all requests outside the scope of the worker’s responsibilities are refused in WMS with details of reason for refusal within 2 hours of the Ticket of Work being assigned by Telstra;
 - ix. confirming task details with the customer prior to attending the Site. An incomplete Ticket of Work will not be paid where these details were not confirmed in advance;
 - x. recording all actions associated with a task to ensure an audit trail is visible; and
 - xi. providing regular feedback to ISG Management to assist with continuous improvement of systems and processes used to deliver service.
- c. The worker will perform, manage and complete the works in accordance with processes and standards described in procedures *015 053 Installation of PSTN Services – External Workforce Residential & Small Business (Up to 3 lines)* and *015 054 Maintenance of PSTN Services – External Workforce Residential & Small Business (Up to 3 lines)* and Telstra technical documentation.
- d. In the event that the work required to complete the Ticket of Work is beyond the scope of a single SOR item specified in the Ticket of Work, the worker must procure supporting documentation (eg photos, video etc) while on site to support claims for additional SOR items in accordance with the Reimbursable Rates Schedule.
- e. ISG Management will not pay for any additional work or items that were performed by the worker or the worker’s Representatives unless sufficient supporting documentation is supplied by the worker to establish, to ISG Management’s satisfaction, that the additional work or item was required.

142. Under clause 6.1.1:
- a. the worker must ensure that all customer Appointments are met on the day specified in the Ticket of Work or arranged with the customer. Where the worker has identified that the worker's Representatives will be unable to attend the Appointment on the day as notified on the Ticket or Work or arranged with the customer, the worker must notify the ISG Management Team Manager, as soon as possible, and at least by 4pm (local time) on the day of the Appointment and must provide details in the WMS of how the worker will manage and recover the appointment;
 - b. the worker must comply, and ensure that the worker's Representatives comply, with the KPIs relating to customer Appointments and Commitments.
143. Under clause 6.1.2:
- a. The worker must ensure that the worker's Representatives ring the customer on approach to the Customer's Premises. If there is no answer after calling all numbers on the Ticket of Work, attendance at the Customer's Premises by the worker's Representative is still required to meet the appointment.
 - b. At the initial contact with the customer, the worker's Representative must provide Photo ID and explain the reason for the visit. The Letter of Introduction can be supplied as additional evidence upon request.
 - c. All aspects of the applicable Services shall be explained to the customer before work proceeds. This shall include the method of installation of any cable, filtering device(s), internal installation, and any applicable amount of payment for Fee For Service activities.
144. Under clause 6.1.6, the worker will ensure all Ticket of Work forms and other paper work is submitted to Telstra within the required timeframes. Documentation includes, but is not limited to, TS601, TCA 1, TAC 2, E88s and E89s for network and lead-in upgrades (in soft copy format and, where specifically requested by Telstra, hard copy format), damages, CNI plans for escalation, incomplete data, and Health and Safety documentation. This includes the retention and forwarding of the completed forms as indicated within/on each form.
145. Under clause 7.5:
- a. The worker agrees to co-operate, at the worker's own expense, with any audit or stock take of the inventory as requested by the Telstra Representative.
 - b. The worker shall be reasonably advised of the date of the stock take, and be provided with stock take processes documentation.

- c. The worker shall be advised of the results of the stock take, and may be invoiced for any lost or missing inventory.
- 146. Under clause 8.2, the worker shall comply with the requirements stated in the Telstra Policies, Procedures and technical documentation, but only to the extent those requirements do not conflict with the terms and conditions of the 2015 Field Procedures Manual.
- 147. Under clause 8.3:
 - a. In addition to ISG Management's requirements, where appropriate, the Services completed by the worker shall also be performed in strict accordance with the specifications and guidelines nominated by ACMA, as amended from time to time. If any conflict exists between the ACMA guidelines and the requirements of this Agreement, the worker shall seek advice and direction from the ISGM Team Manager in writing.
 - b. The worker will ensure that the worker's Representatives working on ACMA approved cabling shall be appropriately accredited to carry out such work. It is the worker's responsibility to ensure that the worker is aware of the latest ACMA publications and that the Services are completed to those requirements. It is also the worker's responsibility to provide and keep on hand copies of relevant ACMA manuals and any updated for reference while carrying out the requirements of this Agreement.
 - c. ISG Management may, in its absolute discretion, and at any time, require information or copies of documentation relating to the ACMA licensing and/or accreditation from the worker. Any cost attributable to compliance with this obligation will be borne by the worker.
- 148. Under clause 10.7:
 - a. The worker shall ensure that the standard of dress and behaviour of the worker's Representatives when undertaking the Services complies with ISG Management's requirements as notified by ISG Management from time to time.
 - b. The worker must ensure that:
 - i. when entering Customer Premises, the worker's Representatives shall ensure that their footwear is clean;
 - ii. the worker's Representatives wear a co-branded uniform in the interests of public confidence; and

- iii. the worker's Representatives ensure that the uniform is laundered appropriately and maintained in good condition to maintain the professional image of the worker, ISG Management and Telstra.
 - c. The worker must ensure that the worker's Representatives do not wear any co-branded item of uniform when performing services for other clients of the worker, and that the worker's Representatives wear the uniform:
 - i. when undertaking the Services; and
 - ii. when representing ISG Management (and Telstra) on official business in relation to the Services.
 - d. Workers must ensure all branded uniforms are returned to ISG Management when a Representative is no longer eligible to wear such items, such as ceasing work with the worker. This obligation also applies to the worker should the Agreement come to an end or Tickets of Work are no longer issued.
 - e. Branding and logos on clothing, other than those of the client, are not permitted.
- 149. Under clause 10.7.1:
 - a. ISG Management will provide the worker with the following items for each of the worker's Representatives:
 - i. co-branded uniform consisting of 6 shirts, 4 pants, 1 jacket, 2 overalls – "Action Back", 1 coverall, 1 hat, 1 beanie, 6 pairs of socks and 1 safety vest; and
 - ii. vehicle co-branding elements in a variety of mediums, such as stickers and/or magnetic labels, as reasonably determined by ISG Management, including with respect to quantity.
 - b. ISG Management will provide additional uniform items and vehicle co-branding elements as determined necessary by ISG Management having regard to the work environment in which the relevant worker and the worker's Representatives operate.
 - c. Uniforms and vehicle co-branding elements will be replaced by ISG Management as and when required where such replacement is necessary as a result of fair wear and tear (as reasonably determined by ISG Management).
- 150. Under clause 10.8, in the interests of public confidence and safety, the worker shall ensure that the worker's Representatives engaged on the Services carry:
 - a. a laminated letter of introduction from Telstra and ISG Management, that the nominated person is authorised to perform the specified work on behalf of Telstra

and ISG Management. This must be returned to ISG Management in the event of termination of the worker engaged by ISG Management, or if the worker or any of the worker's Representatives otherwise ceases involvement in the provision of the Services; and

- b. a Photo ID issued by ISG Management. The photo ID shall be worn as defined within this Field Operations Manual and the Safety Management Plan.
151. Under clause 10.10, the worker is required to set the availability of the worker's Representatives as follows:
- a. Each Representative populates the CMS Contractor Portal availability calendar 3 months in advance via the Toughbook;
 - b. Information will include the days the Representative is available, the availability "window" during which Tickets of Work can be performed and the number of Tickets of Work a Representative considers they will complete per day;
 - c. ISG Management then activates the above information to create a proposed availability for a Representative in CMS and the Contractor Portal;
 - d. If a Representative's availability changes, the Representative must notify ISG Management via a Team Manager as soon as possible so that work allocation can be managed. Changes on the day must be notified immediately, with a reason for the change, for work allocation purposes.
 - e. ISG Management will allocate Tickets of Work based on notified availability of Representatives.
 - f. The worker must nominate the volume of Tickets of Work each Representative will complete per day during the agreed availability.
 - g. Tickets of Work may be performed in accordance with clause 4.4 above.
152. Under clause 10.11, where a worker's Representative will not be available during the agreed availability period, a Team Manager must be notified within at least 5 Business Days to assist with reallocation of Tickets of Work.
153. Under clause 10.12:
- a. The relationship between ISG Management and the worker is that of principal and independent contractor.
 - b. The relationship between ISG Management and the worker is non-exclusive.
 - c. However, while performing Services for ISG Management, workers are not permitted to promote or undertake other CPE (defined as "*Customer Premises*

Equipment") telecommunications services that may or may not have a competitive conflict of interest with the Client.

154. Under clause 10.13:

- a. ISG Management's payment and invoicing process is linked to "Connect" (Telstra's Workflow Management System). As such, the work details issued via "Connect" and the Telstra Access Network Schedule of Rates (SOR) items used by the worker's Representatives to indicate task completion with "Connect" effectively perform the record-keeping and billing function of each and every job that a worker's Representative performs.
- b. The worker must ensure that the worker's Representatives use the correct Telstra Access Network SOR item when closing TOW and should also undertake daily checks to ensure correct Telstra Access Network SOR use. At the end of each week, the faults and submitted Telstra Access Network SOR items are used to ensure the corresponding Reimbursable Rate (SOR) is allocated to the job. This is the mechanism that calculates payment to the worker. Consequently, at all times, the worker must meet the payment processes summarised above (and detailed within the Agreement) to facilitated prompt payment.
- c. Tax Invoices will be created on behalf of the worker by ISG Management, using the data entered into "Connect" by the worker ("*Recipient Created Tax Invoices or RCTIs*").
- d. Payments to the worker will be made by ISG Management weekly (in arrears) within 7 days of the RCTI being issued.
- e. It is a requirement for the worker to monitor and validate the worker Work activities via the Toughbook and or other agreed processes. In order to reduce inaccuracies in reporting and also to ensure that no delays in payment occur as a consequence of inaccurate reporting, ISG Management expects that each worker will, at the end of each business day, check the SOR item(s) claimed against each allocated job. If the worker does not comply with all of the above requirements, ISG Management may:
 - i. elect to process the RCTI as though the worker has approved the RCTI as described within the Agreement; or
 - ii. withhold payments to the worker until such time as the worker complies with the RCTI process as described in the Agreement.

- f. If the worker fails to comply with the RCTI process detailed within this section, the Team Manager will notify the worker of ISG Management's response and next steps for resolution.
- g. The worker is to ensure that all claims for payments under the reimbursable rates are available for audit by ISG Management.
- h. The worker may also qualify to receive incentive payments and conversely be subject to dilution of incentive payment (Performance Indicator Rights ("*PIRs*")) based on their performance as outlined elsewhere in the document.
- i. If the worker qualifies for any incentive payment or dilution of incentive payments, these will be processed by ISG Management.

155. Under clause 10.14:

- a. All work performed by a worker and the worker's Representatives is recorded within "Connect". The materials used within the restoration process, the time the fault was cleared and the restoration activities performed are all uploaded to "Connect" after a worker's Representative has closed a job via the Toughbook.
- b. The worker agrees that the detail provided by a worker's Representative into Connect (via Toughbook) is a true, accurate and permanent record of works performed by the worker's Representative for each job detailed. On this basis, and from the information made available to ISG Management from "Connect", ISG Management will produce, on behalf of the worker, a Recipient Created Tax Invoice ("RCTI") as a record of the works performed by, and of the payment due to, the worker for the previous week.
- c. Once submitted to each worker by ISG Management, the worker has 24 hours within which to acknowledge the RCTI as a true record of works performed allowing the processing of payment to proceed. Should a worker not complete the RCTI process within the 24 hour window, then the RCTI will be deemed by both the worker and SIG Management as having been approved by the worker.

156. Under clause 10.15:

- a. Information from "Connect" is vetted by Telstra or ISG Management prior to creation of the RCTI. This vetting process is a check for:
 - i. incorrect Telstra Access Network SOR items used against TOW issued to a Subcontractor; and
 - ii. anomalous quantities of materials used during the undertaking of tasks.

- b. Incorrect information will be corrected by the Team Manager prior to the creation of the RCTI. This may involve the requirement to query the worker about the job detail, the accuracy of the information, the fix implemented and the record-keeping/reporting process.
- c. Should the worker find that an error in payment has occurred, the matter should be raised as soon as possible to the Team Manager with all supporting documentation made available. Note that where Reimbursable Rate adjustments occur, the corresponding correction may not necessarily occur within the same invoicing period.
- d. The Reimbursable Rate Schedules are applicable to specific regions and are represented in individual maps.

157. Under clause 11:

- a. Workers will be required to meet KPIs relating to timing of completion and quality of work as well as any Fee for Service or charges that need to be applied before completing a TOW. ISG Management will review and reconcile completed work and may apply Performance Indicator Rights (“PIRs”) against workers if KPI obligations have not been met.
- b. PIRs may be applied in a number of ways including by way of set off against OSR Rates payable for past or future Work or Services.
- c. A failure or delay by ISG Management in exercising PIRs in respect of a KPI failure is not a waiver of ISG Management’s rights in relation to that KPI failure or any other right that ISG Management may have.
- d. Understanding and adhering to KPIs is an obligation of the worker.

158. Under clause 11.1:

- a. ISG Management may provide to the worker at the end of each month a report setting out the worker’s performance against KPIs. As at the date of the 2015 Field Operations Manual, those detailed will include (but are not limited to):
 - i. details of revisits within 14 days unfiltered (KPI 1.1);
 - ii. details of Jumper revisits within 21 days unfiltered (KPI 1.2);
 - iii. details of revisits within 100 days unfiltered (KPI 1.3);
 - iv. details of On the Day performance (KPI 2);
 - v. details of Incorrect Call Outs (KPI 3);

- vi. audits conduct by Telstra or ISG Management and number of non-conformances;
 - vii. number of customer Complaints received by Telstra and their status; and
 - viii. Inventory usage/supply.
- b. The ISGM Team Manager may also, from time to time, provide KPI Performance data.
159. Under clause 11.2:
- a. KPIs are used to measure the manner in which the worker performs the Services. Each KPI is a specific and detailed indicator which is set out in the KPI Table 1.
 - b. The KPIs in Table 1 include the purpose, measurement, measurement period, data source, target, a PIR threshold (ie a threshold below which PIRs will not necessarily be applied) and the applicable PIR amount for each KPI (to the extent applicable).
 - c. KPI #1.1 was "*Revisits (14 days)*", the purpose of which was to minimise re-work on faults and on New Service Connections.
 - d. KPI # 1.2 was "*Revisits (Jumper Runner Only – 21 days)*", the purpose of which was to minimise re-work on jumper faults and on New Service Connections.
 - e. KPI #2 was "*On The Day Performance*", the purpose of which was to maximise the number of customer Appointments and Commitments met on the day.
 - f. KPI #3 was "*Incorrect Call Out*", the purpose of which was to ensure all incorrect call outs have the appropriate charges applied.
 - g. KPI #7 was "*Complaints Resolution*", the purpose of which was to ensure Complaints are resolved in a timely manner.
 - h. KPI #8 was "*Compliance to Health, Safety and Environment Incident reporting*", the purpose of which was to ensure all incidents are promptly notified to ISG Management.
160. Under clause 11.3, where the worker does not meet the required Target for a particular KPI for 2 or more consecutive Measurement Periods, or for 3 or more Measurement Periods in any 6 month period, ISG Management may exercise its right to terminate this Agreement.

161. Under clause 12.1:

- a. The worker shall provide safe plant and safe “systems of work” through effective hazard management.
- b. The worker shall provide written procedures and instructions detailing “safe systems of work”.
- c. The worker shall conduct audits to ascertain that safe systems of work are implemented and maintained.
- d. The worker shall ensure compliance with statutory and legislative requirements.
- e. The worker shall cooperate to maintain ISG Management’s safety management system that conforms to AS/NZS 4801, and integrate the requirements from this system into operations.
- f. The worker shall provide reasonable conditions to protect the welfare of the worker’s Representatives.
- g. The worker shall provide a consultative mechanism with worker’s Representatives on important safety related issues.
- h. The worker shall establish and maintain measurable objectives and targets.
- i. The worker shall undertake periodic reviews of the worker’s health and safety policy, documentation and processes to ensure that the policy, documentation and processes remain relevant and appropriate.
- j. The worker shall commit to continuous improvement in relation to health and safety.
- k. The worker should be committed to providing and maintaining a work environment that is safe and health for all of the worker’s Representatives, visitors and the public.
- l. The worker will meet or exceed legislative and contract HSE requirements.
- m. The worker will strive to be the leader in HSE performance in the telecommunications industry.
- n. The worker will actively promote a safety culture.
- o. The worker will ensure all PPE and Safety Equipment is routinely inspected and that inspection records are maintained.
- p. The worker will ensure that the worker’s Representatives attend and participate in scheduled toolbox meetings.

- q. The worker will conduct its operations in a manner consistent with the philosophy that all incidents and injuries are preventable.
- r. The worker will ensure it provides and maintains competency, safe worksites, plant, equipment, substances and safe systems of work and takes all reasonable steps to ascertain that the place of work is safe.
- s. The worker will induct, educate, train, competency test and supervise its Representatives to ensure that work is conducted in a safe and healthy manner and in accordance with ISG Management's Safety Management Plan.
- t. The worker will utilise a risk management approach (hazard identification, risk assessment and control, evaluation) when purchasing, designing, modifying and reviewing its premises, plant, equipment, substances and safe systems of work.
- u. The worker will ensure that the worker's Representatives attend and participate in Toolbox meetings as scheduled or invited to attend.
- v. The worker will ensure that the worker's Representatives attend and participate in Workplace Health and Safety committee meetings as scheduled and/or invited to attend.
- w. The worker will document and regularly review safe systems of work and behaviours for work tasks.
- x. The worker will investigate all incidents and injuries (as directed), and ensure that corrective actions are implemented to prevent recurrence.
- y. The worker will make their managers and supervisors and responsible and accountable for the health and safety performance of their operations.
- z. The worker will regularly remind all Representatives that they have an obligation to work safely, to the benefit of themselves, their families, fellow workers and the organisation.
- aa. The worker will ensure all training and accreditations are maintained.

162. Under clause 16:

- a. The documents referred to in the 2015 Field Operations Manual were as follows:
 - i. ISGM-HSE-GRP-POL-0001 Health, Safety and Environmental Policy.
 - ii. ISGM-PL-GRP-POL-0010 Workplace Behaviour Policy.
 - iii. ISGM-HSE-GRP-POL-0020 Drug Alcohol Policy.
 - iv. ISGM-HSE-PAA-SMP-0082 PAA Safety Management plan – IM.

- v. ISGM-HSE-PAA-EMP-0097 PAA Environmental Management Plan.
- vi. ISGM-OPS-PAA-FRM-0056 Subcontractor Compliance Checklist.
- vii. ISGM-HSE-I-M-RGS-0092 Field Training and Accreditation Matrix I-M.
- viii. ISGM-HSE-PAA-PLM-0202 Asbestos Management Plan.
- ix. ISGM-HSE-PAA-SWMS-0101 IM Install and Maintenance TOW.
- x. ISGM-HSE-PAA-SWMS-0104 IM Entry to Pits and Manholes.
- xi. ISGM-HSE-PAA-SWMS-0107 IM Working at Customers Premises.
- xii. ISGM-HSE-GRP-GUD-0075 Field Work Environmental Guidelines for Employees and Subcontractors.

b. The Telstra technical documents were as follows:

- i. 002 581 Broadband Cable Standard and Customised Install Process.
- ii. 005 201 w50 Priority Assistance Customers Process for IM Contractors.
- iii. 011 604 Provision of Interims For Service Assurance Reasons.
- iv. 014 869 w97 Telstra Policy.
- v. 015 053 Installation of PSTN Services – External Workforce Residential & Small Business (Up to 3 lines)
- vi. 015 054 Maintenance of PSTN Services – External Workforce Residential & Small Business (Up to 3 lines).
- vii. 015 882 a03 Access Networks List of Contractor Documents.
- viii. 016 177 Quality Assurance Procedure.
- ix. 016 177 a05 Workmanship Checklist and Reference Guide.
- x. 017 132 Recall Process.

November 2016 Agreement

163. On around 14 November 2016, ISG Management entered into agreements with workers entitled “*I&M Subcontractor Agreement*” (**November 2016 Agreement**).

Particulars

- (i) The November 2016 Agreement was in writing.
- (ii) The Applicant repeats (ii) of the particulars to paragraph 13 above.

164. Under clause 2.1:

- a. The worker will perform the Services during the Term.

- b. In consideration for the worker performing the Services in accordance with the 2016 Subcontractor Agreement, ISG Management will pay to the worker the Subcontractor fees.
165. Under clause 2.2:
- a. From time to time during the Term, ISG Management may issue one or more Tickets of Work to the worker.
 - b. Unless ISG Management has instructed the worker that the worker is not required to notify ISG Management of acceptance of certain Tickets of Work, the worker must either accept or reject a Ticket of Work within the timeframe notified by ISG Management for acceptance or rejection, failing which the worker will be deemed to have rejected the Ticket of Work.
 - c. The worker must use reasonable endeavours to accept each Ticket of Work, and if the worker rejects a Ticket of Work, the worker must provide written reasons to ISG Management at the time of the rejection.
 - d. When the worker:
 - i. accepts a Ticket of Work; or
 - ii. is issued a Ticket of Work in respect of which the worker is not required to notify acceptance,a binding contract between ISG Management and the worker arises for the performance by the worker of, and payment by ISG Management for, the Services set out in the Ticket of Work on the terms and conditions of the November 2016 Agreement.
166. Under clause 2.4, the worker acknowledges and agrees that if Telstra exercises its rights to defer or suspend the provision of services under the Head Agreement, ISG Management will by necessity defer or suspend any Services or Work under the November 2016 Agreement. The worker acknowledges and agrees that neither ISG Management nor Telstra will be liable to the worker for any loss, damage, cost or expense suffered or incurred by the worker as a result of any such deferral or suspension.
167. Under clause 3.1:
- a. In performing the worker's obligations under the November 2016 Agreement, the worker will at the worker's own cost comply with all Relevant Documents.
 - b. The worker acknowledges that the worker has received a copy of, has read and understands, the Field Operations Manual.

- c. The parties acknowledge and agree that the Relevant Documents form part of the November 2016 Agreement and a breach of any Relevant Document constitutes a breach of the November 2016 Agreement.
168. Under clause 3.2(a), in performing the Services, the worker must at the worker's own cost:
- a. comply with all Legislative Requirements applicable to the Services;
 - b. obtain and maintain all regulatory approvals (including all certificates, licences, accreditations, consents, permits, approvals, authorisations, determinations) necessary for the worker, and the worker Representatives, to perform the Services.
169. Under clause 3.3, the worker and the worker Representatives must perform the Services:
- a. within the time frames specified in the Ticket of Work (except where the worker is notified of an extension of time to perform the Services);
 - b. so that when the Services are completed the result will be of high quality, free from Defects and suitable and able to be used for the purposes for which it is intended;
 - c. diligently, in a proper and tradesman like manner using best industry practices and to a standard reasonably expected of a highly skilled, competent and experienced person who performs work of a similar nature to the Services;
 - d. with due care and skill;
 - e. in compliance with, and so that each of the Services complies with, the applicable KPIs;
 - f. in compliance with the November 2016 Agreement, all Relevant Documents and Legislative Requirements;
 - g. to the reasonable satisfaction of ISG Management; and
 - h. in compliance with all HSE Requirements.
170. Under clause 3.4:
- a. ISG Management may issue reasonable directions to the worker relating to any aspect of the performance of the Services and the worker must comply with such directions within the time specified, as soon as reasonably practicable. Directions may be given orally but, if the worker so requires, must be confirmed by ISG Management in writing.

- b. The worker must comply with any reasonable directions by Telstra when accessing or using any of Telstra's premises, facilities or systems, including any part of a Network.
 - c. The worker must co-operate with, assist and provide all information reasonably required by ISG Management to assist ISG Management to satisfy its obligations under the Head Agreement.
171. Under clause 3.5, from time to time, ISG Management may provide to the worker and the worker Representatives any training the ISG Management considers reasonably necessary for the performance of the Services, and the worker will, at the worker's own cost, ensure that the worker and all relevant worker Representatives attend all such training.
172. Under clause 4(d), ISG Management may (acting reasonably), at any time, notify the worker that a worker Representative (or an employee, contractor, or agent of such worker Representative) must be removed from performance of the Services. The worker will immediately comply with any such request from ISG Management at the worker's own cost and the worker agrees that ISG Management is not liable to the worker for any costs associated with the removal of the worker Representative or the engagement and training of any replacement worker Representative.
173. Under clause 5(d), at each Site, the worker must:
- a. prior to commencing any Works:
 - i. ensure that the worker has a HSE management system that meets all relevant Legislative Requirements; and
 - ii. if required by ISG Management, attend a Site induction;
 - b. take all measures necessary to protect people and property;
 - c. take all reasonable and practicable measures to prevent or minimise any environmental harm;
 - d. avoid unnecessary interference with the passage of people and vehicles;
 - e. prevent nuisance and unreasonable noise, interference and disruption;
 - f. cooperate with any other persons performing works on the Site; and
 - g. only use the Site to the extent necessary to enable the worker to perform the Services.
174. Under clause 10:
- a. The worker must meet the KPIs.

- b. The consequences of a failure to meet the KPIs are set out in the Field Operations Manual and the November 2016 Agreement.
- c. If a dispute arises in relation to a worker's failure to meet KPIs in a KPI Reporting Period, then prior to initiating the dispute resolution process set out in sub-clauses 23.1 to 23.3:
 - i. the worker may, within 14 days of the relevant KPI Reporting Period, provide written notice ("*KPI Notice*") to the relevant team manager (or equivalent position) stating that the worker disputes the failure to meet KPIs during the KPI Reporting Period. At the same time as giving the KPI Notice, the worker must provide written particulars and supplementary documentation as to why the KPIs failure is being disputed;
 - ii. if the KPI Notice and relevant particulars and documentation are provided to the relevant team manager (or their equivalent) within the timeframe set out in clause 10(c)(i), the team manager may consider the KPI Notice and supporting material and make a ruling about whether or not ISG Management's position should stand ("*KPI Response*");
 - iii. if the worker disputes the KPI Response, the worker may seek a review of the KPI Response by a state manager (or equivalent);
 - iv. should any review of the KPIs result in a finding by ISG Management that the worker has not failed to meet KPIs and has incorrectly had worker Fees withheld, ISG Management will take corrective action (including making payment to the worker of any worker Fees incorrectly withheld) provided that any request for a review by the worker was made within the timeframe set out in clause 10(c)(i).

175. Under clause 11:

- a. The worker must, at the worker's cost, rectify all Defects arising during the Defects Liability Period.
 - b. If ISG Management becomes aware of a Defect prior to the expiry of the Defects Liability Period, ISG Management may:
 - i. provide the worker with a written direction requiring the worker to rectify the Defect within a specific time period, in which case:
 - 1. the worker must rectify the Defect within the time period specified;
- and

2. if the worker fails to do so, ISG Management may either rectify the Defect itself or arrange for a third party to do so; or
 - ii. rectify the Defect itself or arrange for a third party to do so (without giving the worker notice or the first right to rectify the Defect).
- c. All costs reasonably incurred by ISG Management to rectify a Defect (or arrange for a third party to do so) will be a debt due and payable by the worker to ISG Management.

176. In respect of clause 12.2:

- a. Under clause 12.2(b)(i), the worker warrants that at the date of clause 12.2 coming into effect, the worker complies with the *Building Code 2013* (“Code”).
- b. Under clause 12.2(b)(ii), the worker warrants that the worker is not subject to any Sanctions or investigations which prevent or restrict the worker entering into or performing the ~~2015 Tickets of Work Agreement~~ November 2016 Agreement, and must, at the worker’s cost, comply (and ensure the worker’s representatives comply) with the Code.
- c. Under clause 12.2(b)(iv), the worker must, at the worker’s cost:
 - i. provide all information and assistance, and take action, as reasonably required by ISG Management, in order for ISG Management and Telstra to comply with the Code;
 - ii. promptly notify ISG Management of any correspondence, query or communication relevant to a Ticket of Work received or given by the worker from the Code Monitoring Group, the Minister for Employment, the Director of Fair Work Building and Construction, the Fair Work Building Industry Inspectorate or other relevant authority under the Code; and
 - iii. at all times maintain adequate records of the compliance by itself and of the worker’s consultants, subcontractors with the Code and, where requested by ISG Management, make those records available to ISG Management, Telstra (or any person authorised by ISG Management or Telstra including an authorised representative of a relevant authority) to inspect and copy, subject to such information being held and treated as Confidential Information by any such person.
- d. Under clause 12.2(g), the worker agrees to provide (and require the worker’s subcontractors provide) ISG Management, Telstra or any person authorised by ISG Management, Telstra or the Code, including a person occupying a position in the Fair Work Building Industry Inspectorate, with access to:

- i. inspect any work, material, machinery, appliance, article or facility;
- ii. inspect and copy any record relevant to the Work; and
- iii. interview any person,

as is necessary to demonstrate the worker's compliance with the Code in relation to any Ticket of Work.

177. In respect of clause 13.1:

- a. Under clause 13.1(a), in consideration for the worker performing the Services to Completion, ISG Management will pay to the worker the Subcontractors Fees.
- b. Under clause 13.1(b), the Subcontractor Fees are calculated by reference to the Schedule of Rates (as amended from time to time in accordance with the November 2016 Agreement).
- c. Under clause 13.1(c), the Schedule of Rates sets out the following information:
 - i. a description of activities which may form the Work required for a particular SOR item ("*SOR Description*");
 - ii. a rate code for each SOR Description ("*Rate Code*");
 - iii. an applicable rate for each Rate Code based on the location where the Work was Completed ("*Rate*"); and
 - iv. a unit of measurement for each Rate.
- d. Under clause 13.1(d), for each Ticket of Work submitted as complete by the worker, ISG Management will pay the worker the Rate for each SOR Description (as designated by a Rate Code) comprising the Services which have been properly performed and Completed in accordance with the Ticket of Work and this Agreement.
- e. Under clause 13.1(e), the Subcontractor Fees will be invoiced under clause 13.2, and paid by ISG Management under clause 13.1, based on the Rate Codes entered into the WMS (or submitted by other means if instructed to do so by ISG Management) by the worker. It is the responsibility of the worker to enter the correct Rate Codes in respect of all Tickets of Work which the worker submits as completed. ISG Management will not be liable to pay the worker, and the worker must repay on demand to ISG Management any overpaid amounts in respect of, any Subcontractor Fees arising from incorrect Rate Codes being entered into the WMS (or submitted by other means if instructed to do so by ISG Management) by the worker.

178. In respect of clause 13.2:
- a. Under clause 13.2(a), ISG Management will prepare and issue to the worker a recipient created tax invoice (“*RCTI*”) for the Subcontractor Fees for Tickets of Work submitted by the worker as Complete on a weekly basis.
 - b. ISG Management must pay the Subcontractor Fees to the worker within 7 days (or such other period as the parties may agree in writing) of the relevant *RCTI* being issued.
179. Under clause 13.3, a payment made by ISG Management in relation to the November 2016 Agreement is a payment on account only and neither the issue of an *RCTI* nor the payment of any amount by ISG Management will be evidence of the value of any Work or Services, an admissions of liability or an admission that any Work or Services are satisfactory.
180. In respect of clause 13.4:
- a. Under clause 13.4(a), with the exception of fraud and/or dishonest or improper conduct by the other party or its Representatives, a party shall not dispute or make any claim whatsoever in relation to *RCTI* amounts or payments more than 3 calendar months after the *RCTI* amounts are paid by ISG Management. Once a period of 3 months has expired after the payment of a *RCTI*, both parties will be deemed to have accepted the amount specified in the *RCTI* as being the entire amount payable to the worker for or in respect of the Work or Services referred to in the *RCTI*.
 - b. Under clause 13.4(b), notwithstanding clause 23, in circumstances where ISG Management disputes the worker’s entitlement to amounts specified in an invoice (including an *RCTI*) that has already been paid, ISG Management will notify the worker and provide the worker with a reasonably opportunity to provide additional information in support of the payment. If no supporting evidence is provided and/or the evidence provided does not, in ISG Management’s reasonably opinion, support the payment made, ISG Management may at its option, and in addition to any other remedies it might have, set off the disputed payment in accordance with clause 28.5 of the November 2016 Agreement or may, on written notice to the worker, require the worker to repay the disputed payment within 21 days of the date of the notice.

181. Under clause 15, the worker represents and warrants to ISG Management as at the date of the November 2016 Agreement and at all times during the Term, that:
- a. the worker is incorporated as a proprietary company and has an Australian Business Number;
 - b. the worker is entitled to, and has the right and power to, supply the Services to ISG Management;
 - c. the worker and the worker Representatives who perform the Services will at all times be suitably skilled, qualified and experienced and will exercise due care and skill in performing the Services;
 - d. the Services shall be free of Defects at Completion and throughout the Defects Liability Period;
 - e. the worker has received a copy of, and has read, understands and will comply with, the requirements and obligations in the November 2016 Agreement and all Relevant Documents;
 - f. the worker will comply with all Legislative Requirements throughout the term;
 - g. the worker will comply with all directions or guidelines given by ISG Management in relation to HSE issues;
 - h. the worker fully complies, has always fully complied, and will continue to fully comply with the worker's statutory and contractual obligations in relation to the worker's Representatives;
 - i. the worker is not aware of anything which would prevent the worker from obtaining, or being entitled to make a claim under, an insurance policy required under the ~~2015 Tickets of Work Agreement~~ November 2016 Agreement;
 - j. the worker has obtained independent professional advice (including legal and financial advice) in relation to the November 2016 Agreement and all insurances required in relation to it (including advice as to the sufficiency and level of such insurances);
 - k. the worker Representatives who provide the Services are allowed to work in Australia and it will take active steps to monitor compliance with any visa conditions.
182. In respect of clause 19.1:
- a. Under clause 19.1(a), the worker must, as a minimum:
 - i. comply with:

1. all Legislative Requirements and the Relevant Documents in relation to HSE;
 2. all directions or guidelines given by ISG Management, or any other person as directed by ISG Management, in relation to HSE aspects of the Services;
- ii. have in place adequate and appropriate systems for compliance with all Legislative Requirements and the Relevant Documents in relation to HSE; and
 - iii. not do, or omit to do, anything which causes or contributes to any breach by ISG Management of any provision of any applicable Legislative Requirements in relation to HSE, and must take all steps as are practicable to assist ISG Management in complying with those provisions.
- b. The worker must ensure that the worker Representatives are at all times appropriate inducted, trained and supervised in relation to:
- i. the risks associated with the supply of the Services;
 - ii. the procedures they need to follow to manage those risks; and
 - iii. their HSE obligations, including under the Legislative Requirements and in the Relevant Documents.
183. In respect of clause 19.2:
- a. Under clause 19.2(a), the worker must permit ISG Management, Telstra and their respective Representatives to enter any Site or worker vehicle at any reasonably time, without notice, to review, inspect, audit compliance or otherwise observe the quality systems, HSE management systems, work practices and procedures and general compliance applicable to the worker's performance of the November 2016 Agreement.
 - b. If ISG Management identifies non-compliance with the November 2016 Agreement, it may:
 - i. exercise any of its rights under the November 2016 Agreement including but not limited to rectification of any Defects or other loss or damage; or
 - ii. perform further audits in relation to the non-compliance, including but not limited to, corrective actions to be taken by the worker to address any non-compliance with the reasonable costs of such an audit being recoverable as a debt due and payable by the worker.

184. In respect of clause 20:

- a. Under clause 20.1(a), during the Term and for a period of 7 years after the expiry of the Term, the worker must:
 - i. keep and maintain full and proper books of account and records relating to the performance of Services and its obligations under the November 2016 Agreement (“*Records*”). The Records must include complete and accurate details of amounts paid and payable to the worker under the November 2016 Agreement, and must be sufficient to enable ISG Management to confirm the extent to which the worker has complied with the worker’s obligations under this Agreement;
 - ii. at ISG Management’s request, produce for inspection a copy of the Records;
 - iii. give ISG Management and Representatives access, and use of, the facilities, data, records, reports and information relating to the Services and any other aspects of the November 2016 Agreement;
 - iv. allow ISG Management and the ISGM Representatives entry to any premises occupied by the worker within 24 hours written notice at all reasonable times to inspect, audit and take copies of the Records and otherwise inspect the worker’s performance of the worker’s obligations under the November 2016 Agreement;
 - v. keep procedures and operational processes including Telstra Issue Material requirements and verification of any amounts for which the worker is liable under the November 2016 Agreement;
 - vi. comply with any reasonable directions of ISG Management relating to ISG Management’s or any Government Authority’s access to and inspection of premises, data, records, accounts, financial material and information in the possession or under the control of the worker and/or the worker’s Representatives and which relate to the performance of the Services; and
 - vii. allow any third party nominated by ISG Management, ISG Management’s Representatives and any relevant Government Authority access to the Records for purposes connected with the November 2016 Agreement or the Head Agreement.
- b. Under clause 20.1(b), at least 60 days prior to the expiry of the 7 year period referred to in clause 20.1(a), the worker must provide to ISG Management a

detailed register of all Records. ISG Management may subsequently request a copy of any Records as required by ISG Management in order to fulfil its obligations to Telstra and the worker must comply with any such request within 5 Business Days of such request. The worker must not delete or destroy any Records prior to receiving written confirmation from ISG Management that the worker has satisfactorily complied with the worker's obligations under clause 20.1(b) (confirmation of which will not be unreasonably withheld or delayed).

- c. Under clause 20.2(a), each party will bear its own internal costs, and subject to clause 20.2(b), ISG Management will be responsible for meeting the costs of any third party auditor, nominee or similar arising from any exercise by ISG Management of its rights under clause 20.
- d. Under clause 20.2(b), where the results of any exercise by ISG Management of its rights under this clause establishes that the worker has been overpaid by ISG Management or identifies a material breach of the November 2016 Agreement by the worker (excluding, for clarification, any failure to meet any KPIs), the worker will be responsible for all costs of ISG Management arising from the audit, review of records or similar, including third party auditor or nominee costs (and, where it has been established that the worker has been overpaid by ISG Management, the worker must immediately pay those costs to ISG Management as well as the amount of the overpayment).

185. In respect of clause 22:

- a. Under clause 22.1(a), each party must, during the term and after the expiry or termination of the November 2016 Agreement:
 - i. take all action reasonably necessary to maintain the confidentiality of the other party's Confidential Information;
 - ii. not disclose the other party's Confidential Information to any person except as permitted under clause 22.2; and
 - iii. use or reproduce the other party's Confidential Information only for the purposes of the November 2016 Agreement.
- b. Under clause 22.1(b), the worker acknowledges that ISG Management may from time to time direct the worker in writing to comply with certain additional confidentiality requirements in respect of Confidential Information of any Government Authority or Confidential Information of Telstra. Such a direction may include a requirement for recipients of such Confidential Information to provide written undertakings to ISG Management, Telstra, or any Government

Authority. Where ISG Management directs the worker to comply with such additional requirements, the worker must promptly comply with those additional requirements.

- c. Under clause 22.2(b), ISG Management may disclose Confidential Information of the worker to its customers (including, to avoid any doubt, to Telstra and to a Telstra Entity) where required for the purpose of re-selling Services, to ensure its customers receive the benefit of the Services, or in using the Services to provide other goods or services to them or to comply with its agreement with the customer (including the Head Contract).

186. In respect of clause 24:

- a. Under clause 24.1, either party may terminate the November 2016 Agreement at any time without cause by giving the other party not less than 20 Business Days written notice.
- b. Under clause 24.2, either party may immediately terminate the November 2016 Agreement by written notice to the other party, if:
 - i. the other party commits a material breach of the November 2016 Agreement (including a material breach of any Relevant Document forming part of the Agreement) that is:
 - 1. capable of remedy and the other party has failed to rectify that breach within 15 Business Days after receipt of written notice from the party; or
 - 2. not capable of remedy; or
 - ii. an Insolvency Event occurs in respect of the other party.

187. In respect of clause 27.1:

- a. Under clause 27.1(b), subject to clause 27.1(c), ISG Management may by written notice to the worker vary the Field Operations manual or any ISGM Policies and Procedures. Any such variation will be notified to the worker by email, attaching a copy of the amended document, or providing a link to the amended document if the document is made available via CM5. To avoid any doubt, ISG Management may vary the ISGM Policies and Procedures under this clause by amending the terms of any existing ISGM Policies and Procedures, or removing or adding policies, guidelines, procedures and standards from or to the ISGM Policies and Procedures.

- b. Under clause 27.1(c), clause 27.1(b) does not entitle ISG Management to vary any Rates or Rate Codes, or the SOR Descriptions in a manner that materially increases the amount of work required of the worker under any SOR Description, which may only be amended in accordance with clause 27.1(d).
- c. Under clause 27.1(d), ISG Management may adjust the SOR (including by varying, introducing and/or removing a Rate, Rate Code or SOR Description) at its discretion to reflect any adjustment (including the variation, introduction or removal of a Rate, SOR Description and/or Rate Code) by Telstra under the Head Agreement. ISG Management will provide written notice to the worker of any adjustment in the SOR (including the variation, introduction or removal of a Rate, SOR Description and/or Rate Code) in a SOR adjustment notice.

March 2017 Agreement

187A. In around March 2017, ISG Management entered into agreements with workers entitled the “I & M Subcontractor Agreement” (March 2017 Agreement).

Particulars

- (i) The March 2017 Agreement was in writing.
- (ii) In respect of the proposition that the March 2017 Tickets of Work Agreement was entered into as between the Respondent and the workers (as defined in paragraph 1A), the Applicant repeats particular (ii) of paragraph 13 above (save that it should be read as referring to the March 2017 Agreement).

187B. The March 2017 Agreement was, in substance, the same as the November 2016 Agreement, save as for being updated to include various “OMMA FTTP” requirements.

August 2017 Agreement

187C. In around August 2017, ISG Management entered into agreements with workers entitled the “I & M Subcontractor Agreement” (August 2017 Agreement).

Particulars

- (i) The August 2017 Agreement was in writing.
- (ii) In respect of the proposition that the August 2017 Tickets of Work Agreement was entered into as between the Respondent and the workers (as defined in paragraph 1A), the Applicant repeats particular (ii) of paragraph 13 above (save that it should be read as referring to the August 2017 Agreement).

187D. The August 2017 Agreement was, in substance, the same as the March 2017 Agreement, save that:

- a. the Respondent was referred to as “*Tandem*”, rather than “*ISGM*”;
- b. clause 12.2 (concerned with the Building Code) was amended;
- c. clauses 18.1(a)(iv) and 18.1(b)(i) (concerned with insurance), were present in the March 2017 Agreement and omitted from the August 2017 Agreement;
- d. the August 2017 Agreement contained a new clause 26 (concerned with workplace laws).

June 2018 Agreement

187E. In around June 2018, ISG Management entered into agreements with workers entitled the “*I & M Subcontractor Agreement*” (***June 2018 Agreement***).

Particulars

- (i) The June 2018 Agreement was in writing.
- (ii) In respect of the proposition that the June 2018 Tickets of Work Agreement was entered into as between the Respondent and the workers (as defined in paragraph 1A), the Applicant repeats particular (ii) of paragraph 13 above (save that it should be read as referring to the June 2018 Agreement).

187F. The June 2018 Agreement was, in substance, the same as the August 2017 Agreement, save that:

- a. clause 15(k) (concerned with immigration), which was present in the August 2017 Agreement, was deleted;
- b. the June 2018 Agreement contained a new clause 27 (concerned with workplace laws).

August 2018 Agreement

187G. In around August 2018, ISG Management entered into agreements with workers entitled the “*I & M Subcontractor Agreement*” (***August 2018 Agreement***).

Particulars

- (i) The August 2018 Agreement was in writing.
- (ii) In respect of the proposition that the August 2018 Tickets of Work Agreement was entered into as between the Respondent and the workers (as defined in paragraph 1A), the Applicant repeats particular (ii) of paragraph 13 above (save that it should be read as referring to the August 2018 Agreement).

187H. The August 2018 Agreement was, in substance, the same as the June 2018 Agreement, save that it contained a new clause 13.2(b)-(e) (concerned with RCTIs).

2016 Field Operations Manual

188. In around November 2016, ISG Management issued to workers a document entitled the “*Field Operations Manual Installation & Maintenance*” (**2016 Field Operations Manual**).

Particulars

- (i) The 2016 Field Operations Manual was in writing.
- (ii) That the 2016 Field Operations Manual was issued to workers is to be inferred from the fact that the workers were required to comply with it, as pleaded in paragraph 188A below.

188A. Workers were required to comply with the 2016 Field Operations Manual.

Particulars

The Applicant repeats paragraph 189 below.

189. Under clause 4:

- a. The 2016 Field Operations Manual sets out the procedures and practices the worker and worker Representatives must follow in performing the Services under the Agreement.
- b. The 2016 Field Operations Manual provides minimum technical specifications and guidance which reflects the established procedures and practices utilised within Telstra’s organisation for the performance of Services and other network maintenance activities on the Network.
- c. The worker must comply with, and ensure that worker Representatives are aware of, and comply with, the requirements of the 2016 Field Operations Manual and all documents referred to in it (all of which are ISGM Policies and Procedures).

190. Under clause 6.2:

- a. Services performed pursuant to a Ticket of Work are performed within the timeframe of 7.00am to 7.00pm in the applicable area each day of the week (including public holidays).
- b. The worker may be assigned Tickets of Work to supply Services outside the above hours where required by ISG Management and/or when urgent action is necessary in accordance with HSE management or emergency requirements.

191. Under clause 6.3:

- a. ISG Management may issue reasonable directions relating to any aspect of the performance of the Services. Directions may be given orally but, if the worker requires it, must be confirmed by ISG Management in writing.
- b. The worker must comply with all reasonable directions given by ISG Management in accordance with this Agreement within the time specified in the direction or, if no time is specified, then as soon as reasonably practicable.

192. Under clause 6.4:

- a. Should residents close to a Site where any Services are performed or other members of the public express any concerns over the worker's operations, the worker shall advise ISG Management immediately and outline a plan for rectifying the situation.
- b. Under no circumstances shall the worker or worker Representatives aggravate residents or other members of the public or provide media comment in connection with the performance of the Services or customers.
- c. To the extent such communications relate to the performance of Services under the Agreement, the worker or worker Representatives may not write letters to, nor give interviews with, any section of the media in any way referring to ISG Management or Telstra without the prior permission of ISG Management.
- d. Full details of any inquiry received must be documented by the worker and immediately reported to a Team Manager or a delegate.
- e. Where a statement is sought in any form by the media, it shall be referred to the ISGM GM Strategic Communications (or a delegate).

193. Under clause 6.5:

- a. The worker is required to set the availability of worker representatives as follows:
 - i. Each Representatives populates the CMS Contractor Portal availability calendar 3 months in advance via the Toughbook;
 - ii. Information will include the days the worker Representative is available, the availability "window" during which Tickets of Work can be performed and the number of Tickets of Work a worker Representative considers they will complete per day;
 - iii. ISG Management then activates the above information to create a proposed availability for a Representative in CMS and the Contractor Portal;

- iv. If a worker's Representative's availability changes, the worker Representative must notify ISG Management via a Team Manager as soon as possible so that work allocation can be managed. Changes on the day must be notified immediately, with a reason for the change, for work allocation purposes.
 - b. The worker must nominate the volume of Tickets of Work each worker Representative will complete per day during the agreed availability.
 - c. ISG Management will allocate Tickets of Work based on notified availability of Representatives.
 - d. Where a worker Representative will not be available during the agreed availability period, the worker must notify a Team Manager at least 5 Business Days prior to the agreed availability period to assist with reallocation of Tickets of Work, except where extenuating circumstances (for example illness or family emergency) prevent 5 Business Days' notice being provided in which case the worker must notify a Team Manager as soon as practicable.
194. Under clause 6.6.3, the worker (or worker Representative) may be notified by ISG Management that the worker is not required to notify acceptance of all or some Tickets of Work. If that notice has not been given to the worker (or the worker's Representative), acceptance of a Ticket of Work will be communicated by the worker to ISG Management via
- a. the WMS (accessed through a Toughbook); or
 - b. another method (for example, by email) if instructed to do so by ISG Management,
- within the time frame required by ISG Management from time to time for acceptance of the relevant category of Ticket of Work.
195. Under clause 6.6.4, if a worker is unable to accept a Ticket of Work that has been issued to the worker, the worker will ensure a worker Representative gives notice of its non-acceptance:
- a. via the Toughbook (unless ISG Management has directed the worker to give notice by some other means) as soon as possible after receiving the Ticket of Work and within the time frame directed by ISG Management for notification of non-acceptance; and
 - b. the reasons for it to the ISGM Team Manager in order to assist with re-allocation of the Ticket of Work.

196. Under clause 6.6.5:

- a. The worker will perform the Services according to the requirements of the Agreement and shall interact with various Telstra work groups to complete each Ticket of Work.
- b. The worker shall be responsible for:
 - i. managing Tickets of Work from the time the task is “assigned” through to completion;
 - ii. ensuring each Ticket of Work is reviewed prior to accepting a Ticket of Work to ensure the task meets activities covered under the 2016 Field Operations Manual;
 - iii. ensuring work is performed in a way that does not cause any unnecessary interruptions to the services of any use of the Network;
 - iv. strictly complying with all required procedures in relation to any interruptions to Special Services;
 - v. ensuring all information is updated in the WMS in “real time” to accurately reflect the current status of a Ticket of Work;
 - vi. ensuring only completed Tickets of Work are registered as completed immediately at the end of each job in WMS, with all the required details and information;
 - vii. ensuring all interactions with the customer meets expectations;
 - viii. ensuring all requests outside the scope of the worker’s responsibilities are refused in WMS with details of reason for refusal within 2 hours of the Ticket of Work being assigned by Telstra;
 - ix. confirming task details with the customer prior to attending the Site. An incomplete Ticket of Work will not be paid where these details were not confirmed in advance;
 - x. recording all actions associated with a task to ensure an audit trail is visible; and
 - xi. providing regular feedback to ISG Management to assist with continuous improvement of systems and processes used to deliver service.
- c. The worker will perform, manage and complete the works in accordance with processes and standards described in procedures *015 053 Installation of PSTN Services – External Workforce Residential & Small Business (Up to 3 lines)* and

015 054 Maintenance of PSTN Services – External Workforce Residential & Small Business (Up to 3 lines) and Telstra technical documentation.

197. Under clause 6.6.6, the worker must keep ISG Management informed of the progress of the Services via the Toughbook (or other means notified by ISG Management) including by promptly notifying ISG Management of delays and events which are likely to cause delays and any failure or likely failure to Complete any Services by the due time of Completion.
198. Under clause 6.6.7:
- a. The worker may be required to substantiate variations on Tickets of Work in both written format and/or with supporting evidence of a photo etc. ISG Management will not pay for any additional work or items that were performed by the worker or worker Representatives unless sufficient support documentation is supplied by the worker to establish, to ISG Management's satisfaction, that the additional work or item was required.
 - b. In the event that the work required to complete the Ticket of Work is beyond the scope of a single SOR item specified in the Ticket of Work, the worker must procure supporting documentation (eg photos, video etc) while on site to support claims for additional SOR items in accordance with the SOR.
199. Under clause 6.6.8:
- a. The worker must ensure that all customer Appointments are met on the day specified in the Ticket of Work or arranged with the customer. Where the worker has identified that the worker Representatives will be unable to attend the Appointment on the day as notified on the Ticket or Work or arranged with the customer, the worker must:
 - i. notify the ISG Management Team Manager, as soon as possible, and at least by 4pm (local time) on the day of the Appointment; and
 - ii. provide details in the WMS of how the worker will manage and recover the appointment.
 - b. The worker must comply, and ensure that the worker's Representatives comply, with the KPIs relating to Customer Appointments and Commitments.
200. Under clause 6.6.9:
- a. The worker must ensure that the worker's Representatives ring the customer on approach to the Customer's Premises. If there is no answer after calling all

numbers on the Ticket of Work, attendance at the Customer's Premises by the worker's Representative is still required to meet the appointment.

- b. At the initial contact with the customer, the worker's Representative must provide Photo ID and explain the reason for the visit. The letter of introduction can be supplied as additional evidence upon request.
 - c. All aspects of the applicable Services shall be explained to the Customer before work proceeds. This shall include the method of installation of any cable, filtering device(s), internal installation, and any applicable amount of payment for Fee for Service activities.
201. Under clause 6.6.13, the worker will ensure all Ticket of Work forms and other paper work is submitted to Telstra within the required timeframes. Documentation includes, but is not limited to, TS601, TCA 1, TAC 2, E88s and E89s for network and lead-in upgrades (in soft copy format and, where specifically requested by Telstra, hard copy format), damages, CNI plans for escalation, incomplete data, and Health and Safety documentation. This includes the retention and forwarding of the completed forms as indicated within/on each form.
202. Under clause 6.9:
- a. In addition to ISG Management's requirements, where appropriate, the Services completed by the worker shall also be performed in strict accordance with the specifications and guidelines nominated by ACMA, as amended from time to time. If any conflict exists between the ACMA guidelines and the requirements of this Agreement, the worker shall seek advice and direction from the ISGM Team Manager in writing.
 - b. The worker will ensure that the worker's Representatives working on ACMA approved cabling shall be appropriately accredited to carry out such work. It is the worker's responsibility to ensure that the worker is aware of the latest ACMA publications and that the Services are completed to those requirements. It is also the worker's responsibility to provide and keep on hand copies of relevant ACMA manuals and any updated for reference while carrying out the requirements of this Agreement.
 - c. ISG Management may, in its absolute discretion, and at any time, require information or copies of documentation relating to the ACMA licensing and/or accreditation from the worker. Any cost attributable to compliance with this obligation will be borne by the worker.

203. Under clause 9.1.6:

- a. The worker agrees to co-operate, at the worker's own expense, with any audit or stock take of the inventory as requested by the Telstra Representative.
- b. The worker shall be reasonably advised of the date of the stock take, and be provided with stock take processes documentation.
- c. The worker shall be advised of the results of the stock take, and may be invoiced for any lost or missing inventory.

204. Under clause 10.4:

- a. without limiting the terms of the Agreement or the worker's responsibilities under it, on Completion of work at each Site, the worker must ensure that all rubbish generated as a result of the Service activity, surplus material, temporary works and construction plant shall be immediately removed from the Site by the worker's Representatives;
- b. the worker must also ensure that:
 - i. Sites shall be left in a clean, neat and tidy condition, equivalent to its condition before the Ticket of Work began; and
 - ii. Customer, Authority or private rubbish bins are not used for waste disposal. Only approved commercial disposal facilities are to be used.

205. Under clause 11.2:

- a. The worker must ensure that worker Representatives have complete and up to date training and accreditations as required and notified by ISG Management from time to time.
- b. Each worker Representative must meet the minimum skill requirements of ISG Management, Telstra and as required by law, with regard to accreditations, qualifications, licences, training and experience.
- c. The worker's minimum skill requirements, accreditations and qualifications are defined in the ISG Management matrix *ISGM-HSE-PAA-RGS-0092 Field Training and Accreditation Matrix I-M*.
- d. Unless otherwise agreed by ISG Management, all licences, training and accreditations required to be held by worker Representatives must be obtained through an authorised Registered Training Organisation and/or industry body and in the case of a Cabling licence, be recognised by ACMA.

- e. Without limitation, the worker:
 - i. agrees that each worker Representative has completed and currently holds all licences, accreditation and any other requirements to undertake the Services and are current for the State or Territory in which the worker is performing Services;
 - ii. must ensure that all certificates, licences, accreditations, consents, permits, approvals, authorisations, determinations required to be held by the worker and worker Representatives in accordance with Legislative Requirements and the Agreement are maintained at all times during the term.
- f. The worker must promptly notify ISG Management as soon as practicable if any qualifications, licences and/or accreditations expire, lapse, are suspended or change.
- g. The worker must:
 - i. permit ISG Management, at any time, to inspect any certificates, licences, accreditations, consents, permits, approvals, authorisations, determinations required to be held by the worker and worker Representatives in accordance with Legislative Requirements, the Agreement and the Field Operations Manual; and
 - ii. provide copies of certificates, registrations, accreditations, permits, approvals, authorisations, determinations and licences to ISG Management that the worker requires in order to perform the worker's obligations under the Agreement.

206. Under clause 11.3:

- a. the worker must maintain a connected and working email address and regularly monitor that email address;
- b. the worker must ensure that both the worker and worker Representatives have and maintain a connected and working mobile telephone or other means of communication capable of Multimedia Messaging Service communication (excluding Toughbooks);
- c. the worker shall ensure that the worker Representatives are directly contactable at all times during their scheduled working hours in order to allow ISG Management and/or Telstra to determine the status of work in progress and likelihood of meeting Appointments.

207. Under clause 11.4:

- a. The worker shall ensure that the standard of dress and behaviour of worker Representatives when undertaking the Services complies with ISG Management's requirements as notified by ISG Management from time to time.
- b. The worker must ensure that:
 - i. when entering Customer Premises, worker Representatives shall ensure that their footwear is clean;
 - ii. worker Representatives wear a co-branded uniform in the interests of public confidence; and
 - iii. worker Representatives ensure that the uniform is laundered appropriately and maintained in good condition to maintain the professional image of the worker, ISG Management and Telstra.
- c. The worker must ensure that worker Representatives do not wear any co-branded item of uniform when performing services for other clients of the worker, and that worker Representatives wear the uniform:
 - i. when undertaking the Services; and
 - ii. when representing ISG Management (and Telstra) on official business in relation to the Services.
- d. Branding and logos on clothing, other than those of ISG Management, Telstra and the worker, are not permitted.
- e. The worker must also ensure that the worker and worker Representatives do not display any imagery that may be damaging to ISG Management's or Telstra's reputation or commercial interests.

208. Under clause 11.4.1:

- a. ISG Management will provide the worker with the following items for each of the worker's Representatives:
 - i. co-branded uniform consisting of 6 shirts, 4 pants, 1 jacket, 2 overalls – "Action Back", 1 coverall, 1 hat, 1 beanie, 6 pairs of socks and 1 safety vest; and
 - ii. vehicle co-branding elements in a variety of mediums, such as stickers and/or magnetic labels, as reasonably determined by ISG Management, including with respect to quantity.

- b. ISG Management will provide additional uniform items and vehicle co-branding elements as determined necessary by ISG Management having regard to the work environment in which the relevant worker and the worker's Representatives operate.
 - c. Uniforms and vehicle co-branding elements will be replaced by ISG Management as and when required where such replacement is necessary as a result of fair wear and tear (as reasonably determined by ISG Management).
209. Under clause 11.4.2, in the interests of public confidence and safety, the worker shall ensure that the worker's Representatives engaged on the Services carry:
- a. a laminated letter of introduction from Telstra and ISG Management, that the nominated person is authorised to perform the specified work on behalf of Telstra and ISG Management. This must be returned to ISG Management in the event of termination of the worker engaged by ISG Management, or if the worker or any of the worker's Representatives otherwise ceases involvement in the provision of the Services; and
 - b. a Photo ID issued by ISG Management. The photo ID shall be worn as defined within this Field Operations Manual and the Safety Management Plan.
210. Under clause 11.6:
- a. The relationship between ISG Management and the worker is that of principal and independent contractor.
 - b. The relationship between ISG Management and the worker is non-exclusive.
 - c. However, while performing Services for ISG Management, workers are not permitted to promote or undertake other CPE telecommunications services that may or may not have a competitive conflict of interest with Telstra.
211. Under clause 12.1:
- a. ISG Management's payment and invoicing process is linked to the WMS. As such, work details issued via the WMS and the Rate Code/s used by worker Representatives to indicate Completion of Work under a Ticket of Work within the WMS effectively perform the record-keeping and billing function of each and every Ticket of Work that a worker Representative performs.
 - b. The worker must ensure that the worker Representatives use the correct Rate Code when closing a Ticket of Work and should also undertake daily checks to ensure correct Rate Code use. At the end of each week, the faults and submitted Rate Codes are used to ensure that the corresponding region specific

Rate is allocated to the worker for the Work under a Ticket of Work. This is the mechanism that calculates payment to the worker. Consequently, at all times, the worker must meet the payment process summarised in the Agreement to facilitate prompt payment.

- c. RCTIs will be created on behalf of the worker by ISG Management, using the data entered into the WMS by the worker.
- d. The worker must monitor and validate the worker's activities in respect of the Services via the Toughbook and/or other agreed processes. In order to reduce inaccuracies in reporting and also to avoid delays in payment as a consequence of inaccurate reporting, ISG Management expects the worker will, at the end of each Business Day, check the Rate Codes claimed by worker Representatives against each Ticket of Work that day.
- e. Once submitted to the worker by ISG Management, the worker has 24 hours within which to review a RCTI and either:
 - i. acknowledge the RCTI as a true record of works performed, thereby allowing the processing of payment to proceed; or
 - ii. notify ISG Management within 24 hours of receiving the RCTI if the worker does not accept the amount set out in the RCTI.
- f. If the worker does not comply with all of the above requirements, ISG Management may:
 - i. elect to process the RCTI as though the worker has approved the RCTI; or
 - ii. withhold payments to the worker until such time as the worker complies with the RCTI process as described in the Agreement.
- g. The Team Manager will notify the worker of ISG Management's response and next steps for resolution.
- h. The worker is to ensure that all claims for payments under the SOR are available for audit by ISG Management.
- i. The worker may also qualify to receive incentive payments or conversely be required to pay ISG Management, or have amounts set off from the worker's payments, due to the exercise of PIRs based on the worker's performance.

212. Under clause 12.2:

- a. Information from the WMS is vetted by Telstra or ISG Management prior to creation of the RCTI. This vetting process is a check for:

- i. Incorrect Telstra Access Network SOR Items used against a Ticket of Work issued to a worker; and
 - ii. a check for anomalous quantities of materials used during the undertaking of tasks.
- b. Incorrect information will be corrected by the Team Manager and the worker immediately notified, prior to the creation of the RCTI. This may involve the requirement to query the worker about the job detail, the accuracy of the information, the fix implemented and the record-keeping/reporting process.
- c. Should the worker find that an error in payment has occurred the matter should be raised as soon as possible to the Team Manager with all supporting documentation made available.

213. Under clause 13:

- a. Workers will be required to meet KPIs relating to timing of completion, quality of work, customer service experience (NPS) as well as any FFS or charges that need to be applied before completing a Ticket of Work.
- b. ISG Management will review and reconcile completed work and may apply PIRs against workers if KPI obligations have not been met and if ISG Management suffers loss as a result of the worker not meeting the worker's KPI obligations under the Head Agreement.
- c. PIRs may be applied in a number of ways including by way of set off against SOR Rates payable for past or future Work or Services.
- d. A failure or delay by ISG Management in exercising PIRs in respect of a KPI failure is not a waiver of ISG Management's rights in relation to that KPI failure or any other right that ISG Management may have.
- e. Understanding and adhering to KPIs is a contractual obligation of the worker.

214. Under clause 13.1:

- a. The worker agrees that ISG Management is responsible for:
 - i. collecting and collating all data for the implementation of KPIs;
 - ii. applying that data to the criteria stipulated in the KPIs; and
 - iii. providing KPI data to the worker.
- b. ISG Management may provide to the worker at the end of each month in CMS a report setting out the worker's performance against KPIs, with those details to include (but not limited to):

- i. details of Wireline revisits within 14 days filtered (KPI 1.1a);
 - ii. details of Wireline revisits within 14 days unfiltered (KPI 1.1b);
 - iii. details of BCIMS revisits within 14 days unfiltered (KPI 1.1c);
 - iv. details of Digital revisits within 14 days unfiltered (KPI 1.1d);
 - v. details of Jumper revisits within 14 days filtered (KPI 1.2);
 - vi. details of revisits within 100 days unfiltered (KPI 1.3);
 - vii. details of On the Day performance (KPI 2);
 - viii. details of Incorrect Call Outs (KPI 3);
 - ix. details of NPS Field Episode (KPI 10);
 - x. audits conducted by Telstra or ISG Management and number of non-conformances;
 - xi. number of customer Complaints received by Telstra and their status; and
 - xii. Inventory usage/supply.
- c. The ISGM Team Manager may also, from time to time, provide KPI Performance data.

215. Under clause 13.2:

- a. KPIs are used to measure the manner in which the worker performs the Services.
- b. Each KPI is a specific and detailed indicator set out in the KPI Table 1.
- c. The KPIs in Table 1 includes the purposes, measurement, measurement period, data source, target and the applicable PIR amount for each KPI (to the extent applicable).
- d. KPI #1.1a was “*Wireline Revisits (Filtered 14 days)*”, the purpose of which was to minimise re-work on faults and on New Service Connections.
- e. KPI #1.1b was “*Wireline Revisits (Unfiltered 14 days)*”, the purpose of which was to minimise re-work on faults and on New Service Connections.
- f. KPI #1.1c was “*HFC Revisits (Unfiltered 14 days)*”, the purpose of which was to minimise re-work on faults and on New Service Connections.
- g. KPI #1.1d was “*Digital – NBN Revisits (14 days)*”, the purpose of which was to minimise re-work on NBN faults and on NBN Installation Services.

- h. KPI #1.2 was "*Revisits (Jumper Runners only – 14 days)*", the purpose of which was to minimise re-work on jumper faults and on New Service Connections.
 - i. KPI #1.3 was "*Revisits (100 days)*", the purpose of which was to minimise the number of ineffective technicians working on the Telstra network.
 - j. KPI #2 was "*On the day performance*", the purpose of which was to maximise the number of customer Appointments and Commitments met on the day.
 - k. KPI #3 was "*Incorrect call out*", the purpose of which was to ensure all incorrect call outs have the appropriate charges applied.
 - l. KPI #4 was "*Fee for service*", the purpose of which was to maximise fee for service revenue made by ISG Management.
 - m. KPI #7 was "*Complaints Resolution*", the purpose of which was to ensure Complaints are resolved in a timely manner.
 - n. KPI #8 was "*Compliance to health, safety and environment incident reporting*", the purpose of which was to ensure all incidents are promptly notified to Telstra.
 - o. KPI #9 was "*Quality of Completed Works*", the purpose of which was to ensure quality of workmanship standards are met.
 - p. KPI #10 was "*Net Promoter Score*", the purpose of which was NPS Interaction.
216. Under clause 13.4, ISG Management shall set off any PIRs payable to ISG Management by the worker against the next RCTI generated by ISG Management in accordance with the Agreement, or, where there is no further invoice (for example as a result of the termination or expiry of the Agreement), ISG Management may raise a separate invoice for the amount of any applicable PIRs and such amount will be a debt due and payable immediately. ISG Management shall indicate the amount of the PIRs (if any) on the relevant RCTI.
217. Under clause 14.1:
- a. The worker shall provide safe plant and safe "systems of work" through effective hazard management.
 - b. The worker shall provide written procedures and instructions detailing "safe systems of work".
 - c. The worker shall conduct audits to ascertain that safe systems of work are implemented and maintained.
 - d. The worker shall ensure compliance with statutory and legislative requirements.

- e. The worker shall cooperate to maintain ISG Management's safety management system that conforms to AS/NZS 4801, and integrate the requirements from this system into operations.
- f. The worker shall provide reasonable conditions to protect the welfare of the worker's Representatives.
- g. The worker shall provide a consultative mechanism with worker's Representatives on important safety related issues.
- h. The worker shall establish and maintain measurable objectives and targets.
- i. The worker shall undertake periodic reviews of its health and safety policy, documentation and processes to ensure that the policy, documentation and processes remain relevant and appropriate.
- j. The worker shall commit to continuous improvement in relation to health and safety.
- k. The worker should be committed to providing and maintaining a work environment that is safe and health for all of the worker's Representatives, visitors and the public.
- l. The worker will meet or exceed legislative and contract HSE requirements.
- m. The worker will strive to be the leaders in HSE performance in the telecommunications industry.
- n. The worker will actively promote a safety culture.
- o. The worker will ensure all PPE and Safety Equipment is routinely inspected and that inspection records are maintained.
- p. The worker will conduct the worker's operations in a manner consistent with the philosophy that all incidents and injuries are preventable.
- q. The worker will ensure the worker provides and maintains competency, safe worksites, plant, equipment, substances and safe systems of work and takes all reasonable steps to ascertain that the place of work is safe.
- r. The worker will induct, educate, train, competency test and supervise the worker's Representatives to ensure that work is conducted in a safe and healthy manner and in accordance with ISG Management's Safety Management Plan.
- s. The worker will utilise a risk management approach (hazard identification, risk assessment and control, evaluation) when purchasing, designing, modifying and

reviewing the worker's premises, plant, equipment, substances and safe systems of work.

- t. The worker will ensure that the worker's Representatives attend and participate in Toolbox meetings as scheduled or invited to attend.
- u. The worker will ensure that the worker's Representatives attend and participate in Workplace Health and Safety committee meetings as scheduled and/or invited to attend.
- v. The worker will document and regularly review safe systems of work and behaviours for work tasks.
- w. The worker will investigate all incidents and injuries (as directed), and ensure that corrective actions are implemented to prevent recurrence.
- x. The worker will make their managers and supervisors and responsible and accountable for the health and safety performance of their operations.
- y. The worker will regularly remind all Representatives that they have an obligation to work safely, to the benefit of themselves, their families, fellow workers and the organisation.
- z. The worker will ensure all training and accreditations is maintained.

218. Under clause 17:

- a. The documents referred to in the ~~2015~~ 2016 Field Operations Manual were as follows:
 - i. ISGM-HSE-GRP-POL-0001 Health, Safety and Environmental Policy.
 - ii. ISGM-PL-GRP-POL-0010 Workplace Behaviour Policy.
 - iii. ISGM-HSE-GRP-POL-0020 Drug Alcohol Policy.
 - iv. ISGM-HSE-PAA-SMP-0082 PAA Safety Management plan – IM.
 - v. ISGM-HSE-PAA-EMP-0097 PAA Environmental Management Plan.
 - vi. ISGM-OPS-PAA-FRM-0056 Subcontractor Compliance Checklist.
 - vii. ISGM-OPS-PAA-FRM-0058 PPE, Tools and Equipment List.
 - viii. ISGM-HSE-I-M-RGS-0092 Field Training and Accreditation Matrix I-M.
 - ix. ISGM-HSE-PAA-PLM-0202 Asbestos Management Plan.
 - x. ISGM-HSE-PAA-SWMS-0101 IM Install and Maintenance TOW.
 - xi. ISGM-HSE-PAA-SWMS-0104 IM Entry to Pits and Manholes.

- xii. ISGM-HSE-PAA-SWMS-0107 IM Working at Customers Premises.
 - xiii. ISGM-HSE-GRP-GUD-0075 Field Work Environmental Guidelines for Employees and Subcontractors.
 - xiv. ISGM-OPS-I-M-WI-0563 Telstra T-Voice Activation and Assurance on the NBN.
 - xv. ISGM-OPS-I-M-WI-0564 Telstra Activation and Assurance on the NBN FTTB_FTTN.
- b. The Telstra technical documents were as follows:
- i. 002 581 Broadband Cable Standard and Customised Install Process.
 - ii. 005 201 w50 Priority Assistance Customers Process for IM Contractors.
 - iii. 011 604 Provision of Interims For Service Assurance Reasons.
 - iv. 014 869 w97 Telstra Policy.
 - v. 015 053 Installation of PSTN Services – External Workforce Residential & Small Business (Up to 3 lines)
 - vi. 015 054 Maintenance of PSTN Services – External Workforce Residential & Small Business (Up to 3 lines).
 - vii. 015 882 a03 Access Networks List of Contractor Documents.
 - viii. 016 177 Quality Assurance Procedure.
 - ix. 016 177 a05 Workmanship Checklist and Reference Guide.
 - x. 017 132 Recall Process.

Work practice

219. At all material times, the relationship between ISG Management (on the one hand) and (the Applicant (and the group members) (on the other hand) was conducted on the following basis:

- a. Workers were required to login on a Toughbook by 7am to 8am.
- b. On logging in, Tickets of Work were allocated to workers.
- c. Workers were not able to pick and choose the Tickets of Work allocated to them.
- d. The number of Tickets of Work allocated to workers varied from day to day.
- e. Workers had no ability to predict or to control the minimum number of Tickets of Work allocated to them.
- f. Workers had no ability to predict or control the location of Tickets of Work.

- g. If workers wanted to decline a Ticket of Work, the worker would have to go to the worker's team leader and ask for a sequence code (being a code inputted by a worker's team leader that, once provided, could be submitted to ISG Management in order to decline a Ticket of Work). Team leaders would usually refuse to issue a code.
- h. Each Ticket of Work had a timer attached to it, which had a time set by ISG Management allocating the time within which the Ticket of Work was required to be completed.
- i. Workers were required to complete a Ticket of Work within the time indicated by the timer.
- j. ISG Management measured and recorded workers' compliance with timers.
- k. If workers did not complete Tickets of Work within the time allocated by the timers, they would be reprimanded by ISG Management; and/or workers were (from time to time) directed to suspend work on the first job, which resulted in two Tickets of Work being active.
- l. Workers had little or no control over how long a job would take, and no allowance was made for difficulties encountered by the worker in performing the work due to matters beyond the worker's control.
- m. In practice, there was no ability of the workers to delegate Tickets of Work to other workers.
- n. ISG Management provided, on a weekly basis, statistics to workers in respect of their performance for matters including:
 - i. The time taken to complete Tickets of Work.
 - ii. Whether the time taken to complete a Ticket of Work was in accordance with the time allocated to the Ticket of Work.
 - iii. The number of Tickets of Work the subject of a sequence code.
 - iv. Customer satisfaction.
 - v. Returns to jobs to fix defects.
 - vi. Re-rolls (being when a worker had to send someone else out to complete a job that the worker had been assigned when the first worker was unable to complete the job).
- o. Workers were able to avoid the recording by ISG Management of a "re-roll" by completing the job in question without pay.

- p. ISG Management penalised workers in respect of perceived or actual poor performance (or when the worker did not meet the statistical measures desired by ISG Management) by assigning fewer (or no) Tickets of Work.
- q. In practice, workers were required to work for a minimum of 6 days a week, and sometimes worked 7 days a week, including public holidays.
- r. In practice, if workers wanted to take time off, they were required to give 3 months' notice of unavailability to work on particular days.
- s. In practice, workers were not able to provide services for entities other than ISG Management because they were expected to be available 6 days a week and, if the workers indicated a lesser availability, the workers (in practice) were allocated fewer (or no) Tickets of Work.
- t. Workers were required to wear uniforms with Telstra and ISG Management logos.
- u. Workers were directed by ISG Management to comply with policies, manuals and methods of work issued by ISG Management.
- v. In the event that ISG Management concluded that a worker had not complied with policies, manuals and methods of work, ISG Management penalised the worker, including by issuing a breach notice or suspending the worker from receiving new Tickets of Work.
- w. ISG Management, from time to time, suspended workers from receiving new Tickets of Work for substantive periods.
- x. ISG Management required workers to attend meetings or do training including the following:
 - i. mandatory toolbox meetings (being meetings of teams of workers, who worked in a particular radius under a particular team leader, usually held monthly).
 - ii. mandatory OH&S training.
 - iii. courses offered by Telstra and ISG Management.
- y. Workers did not negotiate the terms or amounts of payment.
- z. ISG Management required workers to wear identification with ISG Management and Telstra branding.
- aa. Workers had no ability to engage additional workers to carry out a Ticket of Work.

bb. Workers were required to obtain tools specified by ISG Management.

Particulars

ISG Management listed mandatory tools in a document entitled “*ISGM Contractor – Mandatory Tool List*”.

cc. Workers were not paid a minimum wage.

dd. Workers were not paid any amounts in respect of Annual Leave.

ee. Workers were not paid any amounts in respect of Overtime.

ff. Workers were not paid any amounts in respect of Long Service Leave.

gg. Workers were not paid any amounts in respect of Employee Allowances.

hh. Workers were not paid any amounts in respect of Superannuation.

Particulars of practices to which the Applicant was subject

- (i) The Applicant was subject to the practices referred to in (a) to (m), (o), (q), (r), (t) to (v), and (x) to (hh) above.
- (ii) In respect of paragraph (n) above, the Applicant was subject to the practices referred to in (n)(i), (iv), (v) and (vi).
- (iii) The Applicant is aware of the practice of (w) above occurring to other workers.

Characterisation of relationship between the Applicant and ISG Management

220. ISG Management controlled and directed, or had the capacity to control and direct, the manner in which the workers (including the Applicant) performed work, including in respect of the following matters:

- a. The manner in which work was to be performed, and what standards and requirements were to be complied with in performing the work.

Particulars

- (i) 2013 Tickets of Work Agreement, clauses 4.1, 4.3, 4.5, 4.7, 4.8, 7.2, 8, 9.2, 9.3, 9.4, 10.1, 10.2, 13, 17, and 21. See also the equivalent clauses in the 2011 Tickets of Work Agreement and the February 2015 Tickets of Work Agreement.
- (ii) 2013 Field Operations Manual, clauses 4, 4.1.1, 4.1.4, 4.2.1, 4.2.2, 4.2.5, 5, 5.1, 5.1.1, 5.1.2, 8.1, 8.2, 8.3, 10, 10.3, 10.4, 10.5, 10.7, 10.10, 10.11, 10.15, 10.16, 10.18, 10.19, 10.21 (and sub-sections 1, 2, 5 and 6 of clause 10.21), 10.22, 10.23.
- (iii) October 2015 Tickets of Work Agreement, clauses 1.3, 2.1, 2.2, 2.4, 4.1, 4.3, 4.5, 4.7, 4.8, 7, 8.2, 9, 10.3, 10.4, 11.1, 11.2, 13, 18, and 22. See

also the equivalent clauses in the December 2015 Tickets of Work Agreement, the February 2016 Tickets of Work Agreement, and the July 2016 Tickets of Work Agreement.

- (iv) 2015 Field Operations Manual, clauses 4.1, 4.5, 4.6, 5.1, 5.2, 5.4, 6.1, 6.1.1, 6.1.2, 6.1.6, 8.2, 8.3, 10.7, 10.13, 11, 11.1, 11.2, 11.3, 12.1, and 16.
- (v) November 2016 Agreement, clauses 3.1, 3.2(a), 3.3, 5(d), 10, 11, 12.2, 15, and 19.1. See also the equivalent clauses in the March 2017 Agreement, the August 2017 Agreement, the June 2018 Agreement, and the August 2018 Agreement.
- (vi) 2016 Field Operations Manual, clauses 4, 6.6.5, 6.6.6, 6.6.7, 6.6.8, 6.6.9, 6.6.13, 6.9, 10.4, 11.3, 11.4, 13, 13.1, 13.2, 13.4, 14.1 and 17.
- (vii) Paragraphs 219(a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (n), (p), (q), (r), (u), (v), (w), (y), (aa) and (bb) above.

b. The issue of Tickets of Work.

Particulars

- (i) 2013 Tickets of Work Agreement, clauses 2.1, 2.2, 2.4, and 10.1. See also the equivalent clauses in the 2011 Tickets of Work Agreement and the February 2015 Tickets of Work Agreement.
- (ii) 2013 Field Operations Manual, clauses 4.4.1 and 4.4.2
- (iii) October 2015 Tickets of Work Agreement, clauses 2.2, 2.4 and 11.1. See also the equivalent clauses in the December 2015 Tickets of Work Agreement, the February 2016 Tickets of Work Agreement, and the July 2016 Tickets of Work Agreement.
- (iv) November 2016 Agreement, clause 2.2. See also the equivalent clause in the March 2017 Agreement, the August 2017 Agreement, the June 2018 Agreement, and the August 2018 Agreement.
- (v) Paragraph 219(a), (b), (c), (d), (e), (f), and (g) above.

c. The circumstances in which workers could accept or reject a Ticket of Work.

Particulars

- (i) 2013 Tickets of Work Agreement, clauses 2.2 and 10.1. See also the equivalent clauses in the 2011 Tickets of Work Agreement and the February 2015 Tickets of Work Agreement.
- (ii) 2013 Field Operations Manual, clauses 4.4.2, 5.1, and 10.15.
- (iv) October 2015 Tickets of Work Agreement, clause 2.2 and 11.1. See also the equivalent clauses in the December 2015 Tickets of Work

Agreement, the February 2016 Tickets of Work Agreement, and the July 2016 Tickets of Work Agreement.

- (iv) November 2016 Agreement, clause 2.2. See also the equivalent clause in the March 2017 Agreement, the August 2017 Agreement, the June 2018 Agreement, and the August 2018 Agreement.
- (v) 2016 Field Operations Manual, clauses 6.6.3 and 6.6.4.
- (vi) Paragraphs 219(a), (b), (c), (d), (e), (f), and (g) above.

d. The hours in which workers were to be available to perform work.

Particulars

- (i) 2013 Tickets of Work Agreement, clause 2.2. See also the equivalent clause in the 2011 Tickets of Work Agreement and the February 2015 Tickets of Work Agreement.
- (ii) 2013 Field Operations Manual, clauses 4, 10.14, 10.15, and 10.16.
- (iii) 2015 Tickets of Work Agreement, clause 2.2.
- (iv) October 2015 Field Operations Manual, clauses 4.4 and 10.10. See also the equivalent clauses in the December 2015 Tickets of Work Agreement, the February 2016 Tickets of Work Agreement, and the July 2016 Tickets of Work Agreement.
- (v) 2016 Field Operations Manual, clause 6.2 and 6.5.
- (vi) Paragraphs 219(a), (b), (c), (d), (e), (f), (g), (i), (k), (l), (q) and (r) above.

e. The provision of training, and requirement that workers be trained.

Particulars

- (i) 2013 Tickets of Work Agreement, clauses 3 and 17.1(b). See also the equivalent clauses in the 2011 Tickets of Work Agreement and the February 2015 Tickets of Work Agreement.
- (ii) 2013 Field Operations Manual, clauses 4, 8.3, 9.2.2, 10.8, 10.9 and 10.33.
- (iii) October 2015 Tickets of Work Agreement, clauses 3 and 18.1(b). See also the equivalent clauses in the December 2015 Tickets of Work Agreement, the February 2016 Tickets of Work Agreement, and the July 2016 Tickets of Work Agreement.
- (iv) 2015 Field Operations Manual, clause 12.1.
- (v) November 2016 Agreement, clause 19.1. See also the equivalent clauses in the March 2017 Agreement, the August 2017 Agreement, the June 2018 Agreement, and the August 2018 Agreement.

- (vi) 2016 Field Operations Manual, clause 11.2 and 14.1.
- (vii) Paragraph 219(x) above.

f. Attendance at meetings.

Particulars

- (i) 2013 Tickets of Work Agreement, clause 9.2. See also the equivalent clause in the 2011 Tickets of Work Agreement and the February 2015 Tickets of Work Agreement.
- (ii) 2013 Field Operations Manual, clause 10.15, 10.22 and 10.33.
- (iii) October 2015 Tickets of Work Agreement, clause 10.2. See also the equivalent clause in the December 2015 Tickets of Work Agreement, the February 2016 Tickets of Work Agreement, and the July 2016 Tickets of Work Agreement.
- (iv) 2015 Field Operations Manual, clause 12.1.
- (v) 2016 Field Operations Manual, clause 14.1.
- (vi) Paragraph 219(x) above.

g. The circumstances in which workers could subcontract or delegate work.

Particulars

- (i) 2013 Tickets of Work Agreement, clause 4.4. See also the equivalent clause in the 2011 Tickets of Work Agreement and the February 2015 Tickets of Work Agreement.
- (ii) October 2015 Tickets of Work Agreement, clause 4.4. See also the equivalent clause in the December 2015 Tickets of Work Agreement, the February 2016 Tickets of Work Agreement, and the July 2016 Tickets of Work Agreement.
- (iii) November 2016 Agreement, clause 4(d). See also the equivalent clause in the March 2017 Agreement, the August 2017 Agreement, the June 2018 Agreement, and the August 2018 Agreement.
- (iv) Paragraph 219(m) above.

h. The issue by ISG Management of directions to the worker.

Particulars

- (i) 2013 Tickets of Work Agreement, clauses 4.6 and 4.8. See also the equivalent clauses in the 2011 Tickets of Work Agreement and the February 2015 Tickets of Work Agreement.

- (ii) 2013 Field Operations Manual, clauses 4, and 4.1.4.
 - (iii) October 2015 Tickets of Work Agreement, clauses 4.6 and 4.8. See also the equivalent clauses in the December 2015 Tickets of Work Agreement, the February 2016 Tickets of Work Agreement, and the July 2016 Tickets of Work Agreement.
 - (iv) November 2016 Agreement, clauses 3.4, 15, and 19.1. See also the equivalent clauses in the March 2017 Agreement, the August 2017 Agreement, the June 2018 Agreement, and the August 2018 Agreement.
 - (v) 2016 Field Operations Manual, clause 6.3.
 - (vi) Paragraph 219(n), (u) and (v) above.
- i. The provision of information by the worker to ISG Management, and ISG Management's rights to be provided with information and audit the worker.

Particulars

- (i) 2013 Tickets of Work Agreement, clauses 4.6, 4.8, 7.1, 7.2, 9.4(b), 17.3, 18, and 21. See also the equivalent clauses in the 2011 Tickets of Work Agreement and the February 2015 Tickets of Work Agreement.
 - (ii) 2013 Field Operations Manual, clauses 4, 4.2.2, 10.5, 10.7, 10.8, and sub-section 6 of clause 10.21.
 - (iii) October 2015 Tickets of Work Agreement, clauses 3, 4.4, 4.6, 8.2, 10.4, 18.3, 19, and 22. See also the equivalent clauses in the December 2015 Tickets of Work Agreement, the February 2016 Tickets of Work Agreement, and the July 2016 Tickets of Work Agreement.
 - (iv) 2015 Field Operations Manual, clause 5.2, 7.5, and 10.13.
 - (v) November 2016 Agreement, clauses 3.4, 12.2, 19.2, and 20. See also the equivalent clause in the March 2017 Agreement, the August 2017 Agreement, the June 2018 Agreement, and the August 2018 Agreement.
 - (vi) 2016 Field Operations Manual, clause 6.9, 9.1.6, and 11.2.
- j. ISG Management had the right, in certain circumstances and in certain respects, to amend contractual documents and/or alter the legal rights as between ISG Management and the worker.

Particulars

- (i) 2013 Tickets of Work Agreement, clause 11.5, 20.1, and 24. See also the equivalent clauses in the 2011 Tickets of Work Agreement and the February 2015 Tickets of Work Agreement.
- (ii) 2013 Field Operations Manual, clauses 4, sub-section 5 of clause 20.21.

- (iii) October 2015 Tickets of Work Agreement, clauses 1.3, 2.2, 10.5, and 21.1. See also the equivalent clauses in the December 2015 Tickets of Work Agreement, the February 2016 Tickets of Work Agreement, and the July 2016 Tickets of Work Agreement.
 - (iv) November 2016 Agreement, clauses 22.1 and 27.1. See also the equivalent clauses in the March 2017 Agreement, the August 2017 Agreement, the June 2018 Agreement, and the August 2018 Agreement.
- k. ISG Management had the right to terminate the contracts with workers without cause.

Particulars

- (i) 2013 Tickets of Work Agreement, clause 25.1. See also the equivalent clause in the 2011 Tickets of Work Agreement and the February 2015 Tickets of Work Agreement.
 - (ii) October 2015 Tickets of Work Agreement, clause 26.1. See also the equivalent clause in the December 2015 Tickets of Work Agreement, the February 2016 Tickets of Work Agreement, and the July 2016 Tickets of Work Agreement.
 - (iii) November 2016 Agreement, clause 24.1. See also the equivalent clause in the March 2017 Agreement, the August 2017 Agreement, the June 2018 Agreement, and the August 2018 Agreement.
- l. In the event that Telstra exercised its right to defer or suspend the provision of services under the Head Agreement, ISG Management was entitled to defer or suspend any services or work.

Particulars

- (i) 2013 Tickets of Work Agreement, clause 24. See also the equivalent clause in the 2011 Tickets of Work Agreement and the February 2015 Tickets of Work Agreement.
- (ii) October 2015 Tickets of Work Agreement, clause 25. See also the equivalent clause in the December 2015 Tickets of Work Agreement, the February 2016 Tickets of Work Agreement, and the July 2016 Tickets of Work Agreement.
- (iii) November 2016 Agreement, clauses 2.4. See also the equivalent clauses in the March 2017 Agreement, the August 2017 Agreement, the June 2018 Agreement, and the August 2018 Agreement.

m. The circumstances in which a worker could perform services for other persons.

Particulars

- (i) 2013 Tickets of Work Agreement, clause 2.3(d). See also the equivalent clause in the 2011 Tickets of Work Agreement and the February 2015 Tickets of Work Agreement.
- (ii) 2013 Field Operations Manual, clause 10.16.
- (iii) October 2015 Tickets of Work Agreement, clause 2.3(d). See also the equivalent clause in the December 2015 Tickets of Work Agreement, the February 2016 Tickets of Work Agreement, and the July 2016 Tickets of Work Agreement.
- (iv) 2015 Field Operations Manual, clause 10.12.
- (v) 2016 Field Operations Manual, clause 11.6.

n. ISG Management had the power to impose, and did impose, adverse consequences on workers in respect of perceived or actual poor performance, or when the worker did not meet the statistical measures desired by ISG Management.

Particulars

- (i) Paragraph 219(p) above.

o. ISG Management specified the tools that a worker was required to use.

Particulars

- (i) 2013 Field Operations Manual, clause 10.3.
- (ii) Paragraph 219(bb) above.

p. The workers were required not to make public or media comment about the services performed for ISG Management, without first having permission.

Particulars

- (i) 2013 Field Operations Manual, clause 4.2.6.
- (ii) 2015 Field Operations Manual, clause 5.2.6.
- (iii) 2016 Field Operations Manual, clause 6.4.

q. The superintendence by ISG Management of the workers' finances, as pleaded below.

r. The appearance of the workers, as pleaded below.

221. ISG Management superintended the workers' finances (including those of the Applicant), by reason of the following matters:

- a. The amount payable for work done was set in accordance with rates determined by ISG Management.

Particulars

- (i) 2013 Tickets of Work Agreement, clauses 11.1 and 11.4. See also the equivalent clauses in the 2011 Tickets of Work Agreement and the February 2015 Tickets of Work Agreement.
 - (ii) 2013 Field Operations Manual, clauses 4, 10.17 and 10.29.
 - (iii) October 2015 Tickets of Work Agreement, clause 2.2, 12.1, and 12.4. See also the equivalent clauses in the December 2015 Tickets of Work Agreement, the February 2016 Tickets of Work Agreement, and the July 2016 Tickets of Work Agreement.
 - (iv) 2015 Field Operations Manual, clause 10.13 and 10.15.
 - (v) November 2016 Agreement, clause 2.1 and 13.1. See also the equivalent clauses in the March 2017 Agreement, the August 2017 Agreement, the June 2018 Agreement, and the August 2018 Agreement.
 - (vi) 2016 Field Operations Manual, clause 12.1.
 - (vii) Paragraph 219(y) above.
- b. ISG Management prepared Recipient Created Tax Invoices (**RCTI**) and provided the RCTIs to the worker.

Particulars

- (i) 2013 Tickets of Work Agreement, clause 11.2. See also the equivalent clause in the 2011 Tickets of Work Agreement and the February 2015 Tickets of Work Agreement.
- (ii) 2013 Field Operations Manual, clause 10.17 and 10.18.
- (iii) October 2015 Tickets of Work Agreement, clauses 2.2, and 12.2. See also the equivalent clauses in the December 2015 Tickets of Work Agreement, the February 2016 Tickets of Work Agreement, and the July 2016 Tickets of Work Agreement.
- (iv) 2015 Field Operations Manual, clause 10.13 and 10.14.
- (v) November 2016 Agreement, clause 13.2. See also the equivalent clause in the March 2017 Agreement, the August 2017 Agreement, the June 2018 Agreement, and the August 2018 Agreement.
- (vi) 2016 Field Operations Manual, clause 12.1.

- c. ISG Management prescribed the process for when workers sought to dispute the amounts in RCTIs.

Particulars

- (i) 2013 Tickets of Work Agreement, clause 11.2. See also the equivalent clause in the 2011 Tickets of Work Agreement and the February 2015 Tickets of Work Agreement.
 - (ii) 2013 Field Operations Manual, clause 10.17 and 10.18.
 - (iii) October 2015 Tickets of Work Agreement, clause 12.2. See also the equivalent clause in the December 2015 Tickets of Work Agreement, the February 2016 Tickets of Work Agreement, and the July 2016 Tickets of Work Agreement.
 - (iv) 2015 Field Operations Manual, clause 10.13, 10.14 and 10.15.
 - (v) November 2016 Agreement, clause 13.4. See also the equivalent clause in the March 2017 Agreement, the August 2017 Agreement, the June 2018 Agreement, and the August 2018 Agreement.
 - (vi) 2016 Field Operations Manual, clause 12.1 and 12.2.
- d. ISG Management could, and did, in certain circumstances, adjust the rates in respect of the amounts to be paid for work.

Particulars

- (i) 2013 Tickets of Work Agreement, clause 11.5. See also the equivalent clause in the 2011 Tickets of Work Agreement and the February 2015 Tickets of Work Agreement.
 - (ii) October 2015 Tickets of Work Agreement, clause 12.5. See also the equivalent clause in the December 2015 Tickets of Work Agreement, the February 2016 Tickets of Work Agreement, and the July 2016 Tickets of Work Agreement.
 - (iii) November 2016 Agreement, clause 27.1. See also the equivalent clause in the March 2017 Agreement, the August 2017 Agreement, the June 2018 Agreement, and the August 2018 Agreement.
222. The economic activity that was carried on by the workers (including the Applicant) was portrayed as that of ISG Management, by reason of the following matters:

- a. The workers were required to wear a uniform containing ISG Management branding.

Particulars

- (i) 2013 Tickets of Work Agreement, clause 7.3. See also the equivalent clause in the 2011 Tickets of Work Agreement and the February 2015 Tickets of Work Agreement.
- (ii) 2013 Field Operations Manual, clause 10.11.
- (iii) 2015 Tickets of Work Agreement, clause 8.3.
- (iv) October 2015 Field Operations Manual, clause 5.2, 10.7, and 10.7.1. See also the equivalent clauses in the December 2015 Tickets of Work Agreement, the February 2016 Tickets of Work Agreement, and the July 2016 Tickets of Work Agreement.
- (v) 2016 Field Operations Manual, clause 11.4, and 11.4.1.
- (vi) Paragraph 219(t) above.

- b. The workers were required to use ISG Management branding on their vehicles.

Particulars

- (i) 2013 Tickets of Work Agreement, clause 7.3. See also the equivalent clause in the 2011 Tickets of Work Agreement and the February 2015 Tickets of Work Agreement.
- (ii) 2013 Field Operations Manual, clause 10.11.
- (iii) October 2015 Tickets of Work Agreement, clause 8.3. See also the equivalent clause in the December 2015 Tickets of Work Agreement, the February 2016 Tickets of Work Agreement, and the July 2016 Tickets of Work Agreement.
- (iv) 2015 Field Operations Manual, clause 10.7.1.
- (v) 2016 Field Operations Manual, clause 11.4.1.

- c. The workers were required to have identification with ISG Management and Telstra branding.

Particulars

- (i) 2013 Tickets of Work Agreement, clause 7.2. See also the equivalent clause in the 2011 Tickets of Work Agreement and the February 2015 Tickets of Work Agreement.
- (ii) 2013 Field Operations Manual, clause 10.12.

- (iii) October 2015 Tickets of Work Agreement, clauses 8.2. See also the equivalent clause in the December 2015 Tickets of Work Agreement, the February 2016 Tickets of Work Agreement, and the July 2016 Tickets of Work Agreement.
- (iv) 2015 Field Operations Manual, clause 10.8.
- (v) 2016 Field Operations Manual, clause 11.4.2.
- (vi) Paragraph 219(z) above.

223. By reason of the following matters, each worker (including the Applicant) was integrated in the business of ISG Management and did not conduct a business of their own:

- a. ISG Management controlled the allocation of work.

Particulars

- (i) 2013 Tickets of Work Agreement, clauses 2.2 and 2.4. See also the equivalent clauses in the 2011 Tickets of Work Agreement and the February 2015 Tickets of Work Agreement.
- (ii) October 2015 Tickets of Work Agreement, clause 2.2. See also the equivalent clause in the December 2015 Tickets of Work Agreement, the February 2016 Tickets of Work Agreement, and the July 2016 Tickets of Work Agreement.
- (iii) 2015 Field Operations Manual, clause 10.10.
- (iv) November 2016 Agreement, clause 2.2. See also the equivalent clause in the March 2017 Agreement, the August 2017 Agreement, the June 2018 Agreement, and the August 2018 Agreement.
- (v) Paragraph 219(a), (b), (c), (d), (e), (f), (g), (h), (i) and (q) above.

- b. Workers had little latitude in respect of acceptance of work.

Particulars

- (i) 2013 Tickets of Work Agreement, clause 2.2, 2.4 and 10.1. See also the equivalent clauses in the 2011 Tickets of Work Agreement and the February 2015 Tickets of Work Agreement.
- (ii) October 2015 Tickets of Work Agreement, clauses 2.2 and 11.1. See also the equivalent clauses in the December 2015 Tickets of Work Agreement, the February 2016 Tickets of Work Agreement, and the July 2016 Tickets of Work Agreement.
- (iii) 2015 Field Operations Manual, clause 6.1, and 10.10.

- (iv) November 2016 Agreement, clause 2.2. See also the equivalent clause in the March 2017 Agreement, the August 2017 Agreement, the June 2018 Agreement, and the August 2018 Agreement.
 - (v) 2016 Field Operations Manual, clause 6.5.
 - (vi) Paragraph 219(a), (b), (c), (d), (e), (f), (g), (i), (k), (q), (r) and (s) above.
- c. ISG Management's business was the marshalling and direction of the labour of the workers.
 - d. The workers did not supplement or perform part of the work undertaken by ISG Management, rather the workers effectively performed all of ISG Management's operations in the outside world.
224. No goodwill inured to the workers (including the Applicant) by reason of services performed for ISG Management.
225. The workers (including the Applicant) carried out little, or no, advertising to the public promoting a business being carried on by the worker.
226. ISG Management did not negotiate with the workers (including the Applicant) in respect of the amounts paid (or payable) to the workers.
227. The workers (including the Applicant) were economically dependent upon, and provided services exclusively, or to an extent that was almost exclusive, to ISG Management.

Particulars

The Applicant provided services exclusively to ISG Management.

228. By reason of the matters pleaded above, on the totality of the relationship as between the workers (including the Applicant) and ISG Management, the relationship was one of employment.

National Employment Standards

229. ISG Management was a "*constitutional corporation*" within the meaning of s 12 of the *Fair Work Act 2009* (Cth) (**Fair Work Act**).
230. ISG Management was a "*national system employer*" within the meaning of s 14 of the *Fair Work Act*.
231. The workers were "*national system employees*" within the meaning of s 13 of the *Fair Work Act*.
232. The workers:
- a. provided to ISG Management a firm advance obligation to provide on-going work;
 - and

- b. did not have capacity to have access to rest and recreation.

Particulars

- (i) The Applicant repeats the particulars to paragraph 220(d) above.
- (ii) The Applicant repeats the particulars to paragraph 223(b) above.
- (iii) 2015 Field Operations Manual, clause 10.10.
- (iv) 2016 Field Operations Manual, clause 6.5.

233. The workers were not “*casual employees*” within the meaning of s 86 of the *Fair Work Act*.

Particulars

- (i) The Applicant relies on paragraphs 219 to 227, and paragraph 232 above.
- (ii) Further particulars, including as to the conduct of the parties to the employment relationship and the matters informing the real substance, practical reality and true nature of that relationship, may be provided after discovery.

234. Under s 87 of the *Fair Work Act*, the Applicant was entitled to 4 weeks of paid annual leave for each year of service with ISG Management.

235. Under s 90(2) of the *Fair Work Act*, if, when the employment of an employee ends, the employee has a period of untaken paid annual leave, the employer must pay the employee the amount that would have been payable to the employee had the employee taken that period of leave.

236. Under s 96 of the *Fair Work Act*, the Applicant was entitled to 10 days of paid personal/carer’s leave for each year of service with ISG Management.

237. In contravention of s 44 of the *Fair Work Act*, ISG Management:

- a. did not grant the Applicant any annual leave, or make any payments to the Applicant in respect of annual leave.
- b. did not grant the Applicant any personal leave.

Telecommunications Services Award 2010

238. From 1 January 2010, the workers were covered by the *Telecommunications Services Award 2010 (Award)*.

Particulars

- (i) The Applicant repeats paragraph 0(a) 1A(a) and 228 above.
- (ii) The Applicant repeats paragraph 4 to 6 above.

- (iii) Clauses 4.1 and 4.2 of the Award.
- (iv) Further particulars may be provided after discovery.

239. The Applicant was engaged on a full-time basis, within the meaning of clause 11 of the Award.

Particulars

- (i) The Applicant repeats the particulars to paragraph 233 above.
- (ii) The Applicant worked for an average of 38 or more hours per week.
- (iii) The Applicant on an average working day logged into the Toughbook by 7am, worked from morning until the evening, worked at least 6 days per week, but sometimes worked 7 days (including weekends and public holidays).
- (iv) The Applicant commenced working for ISG Management in around late 2013, and ceased working in around late 2016.

240. The Applicant was a “*Telecommunications Technician*” within the meaning of Schedule B, classification table B.1.3 of the Award.

Particulars

- (i) The Applicant was qualified with a Certificate III in Telecommunications Technology.

241. Under clause 14.1(c) of the Award, the Applicant was entitled to be paid by ISG Management a weekly minimum wage, as varied from time to time, according to the rate per week in respect of a Telecommunications Technician.

242. Under clause 17.1(a) of the Award, the Applicant was entitled to be paid by ISG Management a vehicle allowance.

243. Under clause 17.1(c) of the Award, the Applicant was entitled to be paid by ISG Management a telephone allowance.

244. Under clause 17.1(d) of the Award, the Applicant was entitled to be paid by ISG Management a meal allowance.

245. Under clause 17.1(e) of the Award, the Applicant was entitled to be paid by ISG Management expenses and travelling time.

246. Under clause 17.2 of the Award, the Applicant was entitled to be paid by ISG Management a tool allowance.

247. Under clause 19.2 of the Award, ISG Management was required to make superannuation contributions to a superannuation fund for the benefit of the Applicant.

248. Under clause 20.1 of the Award, ordinary hours of work are to be an average of 38 per week.
249. Under clause 20.8 of the Award, the Applicant was entitled to be paid a penalty rate of time and a half for ordinary time worked:
- a. between midnight on Friday and 7.00 am on Saturday; and
 - b. between 1.00 pm on Saturday and midnight on Sunday.
250. Under clause 21.1 of the Award, the Applicant was entitled to be paid overtime rates of time and a half for the first 3 hours in excess of ordinary hours and double time thereafter, with each day's work to stand alone.
251. Under clause 23.3, the amounts payable to the Applicant in respect of annual leave was the wages and loadings under clause 20, with a loading of 17.5%.
252. In contravention of s 45 of the *Fair Work Act* and in breach of the Award:
- a. The weekly payments received by the Applicant were less than the minimum wage entitlement in accordance with clause 14.1(c) of the Award in the periods particularised below.

Particulars

The payments received by the Applicant were less than the minimum wage in the following periods:

- (i) January 2014.
 - (ii) February 2014.
 - (iii) March 2014.
 - (iv) April 2014.
 - (v) May 2014.
 - (vi) June 2014.
 - (vii) July 2014.
 - (viii) August 2014.
- b. The Applicant was not paid a vehicle allowance in accordance with clause 17.1(a) of the Award.
 - c. The Applicant was not paid a telephone allowance in accordance with clause 17.1(c) of the Award.
 - d. The Applicant was not paid a meal allowance in accordance with clause 17.1(d) of the Award.

- e. The Applicant was not paid expenses and travelling time in accordance with clause 17.1(e) of the Award.
 - f. The Applicant was not paid a tool allowance in accordance with clause 17.2 of the Award.
 - g. ISG Management did not make superannuation contributions in accordance with clause 19.2 of the Award.
 - h. The Applicant was not paid a penalty rate in respect of work done on weekends in accordance with clause 20.8 of the Award.
 - i. The Applicant was not paid overtime rates in accordance with clause 21.1 of the Award.
 - j. The Applicant was not paid amounts in respect of annual leave in accordance with clause 23.3 of the Award.
253. In the alternative to paragraphs 239 and 241 above, if the Applicant was engaged on a casual basis within the meaning of clause 11 of the Award:
- a. under clause 11.3, the Applicant was entitled to be paid per hour 1/38th of the weekly wage referred to in paragraph 241, plus 25%.
 - b. in contravention of s 45 of the *Fair Work Act* and in breach of the Award, the Applicant was not paid amounts in accordance with clause 11.3 of the Award.
254. Under s 539(1) of the *Fair Work Act*, each of s 44 and s 45 of the *Fair Work Act* is a “*civil remedy provision*”.
255. Under s 545(1) of the *Fair Work Act*, ISG Management is liable to pay compensation to the Applicant.

Particulars

- (i) The Applicant is entitled to be paid an amount to put him in the position he would have been in, had he been treated as an employee.
- (ii) The Applicant is entitled to be paid an amount to compensate him for the anxiety, depression and distress caused by reason of ISG Management’s conduct.
- (iii) The Applicant has suffered from anxiety, depression and distress.
- (iv) The Applicant has experienced these states from late in 2013 to present.
- (v) The following actions in the period 2013 to 2015 of Julian Powell, of the Respondent caused or contributed to those states:

- (A) Julian Powell conducting himself in such a way that led to the Applicant feeling bullied, unsupported and belittled, including by being condescending and disparaging.
 - (B) constant rudeness, negative feedback and no encouragement.
 - (C) failure to provide any professional support, training or guidance.
- (vi) The following actions in 2015 of Sara Reddan and Daniel Stivala ~~caused or contributed to those states:~~
- (A) communications in a disparaging and rude manner;
 - (B) the issue, by Sara Reddan, of a 3 month suspension with no prior warning.
- (vii) The following other actions, in the period 2013 to 2016, of the Respondent ~~caused or contributed to those states:~~
- (A) weekly performance reviews.
 - (B) the possibility of re-rolls.
 - (C) the timer attached to each Ticket of Work.
 - (D) the general lack of certainty with the work, including that the Applicant had no idea when jobs were coming in or how many jobs he would receive, which impacted upon his personal relationships, and made it difficult to plan his finances including whether he would be able to pay his bills.

Section 357 of the Fair Work Act

256. ISG Management represented to the workers that the contract of employment under which the workers were employed by ISG Management was a contract for services, under which the workers would perform work as an independent contractor.

Particulars

- (i) 2013 Tickets of Work Agreement, clause 28.1.
- (ii) October 2015 Tickets of Work Agreement, clause 29.1. See also the equivalent clause in the February 2015 Tickets of Work Agreement, the December 2015 Tickets of Work Agreement, the February 2016 Tickets of Work Agreement, the July 2016 Tickets of Work Agreement, the March 2017 Agreement, the August 2017 Agreement, the June 2018 Agreement, and the August 2018 Agreement.
- (iii) November 2016 Agreement, clause 28.1.
- (iv) 2015 Field Operations Manual, clause 10.12.
- (v) 2016 Field Operations Manual, clause 11.6.

257. By reason of the matters pleaded in paragraph 228 above, the representation in paragraph 256 above was made in contravention of s 357 of the *Fair Work Act*.

258. Under s 539(1) of the *Fair Work Act*, s 357 is a “civil remedy provision”.

Penalty under the *Fair Work Act*

259. By reason of the contraventions of s 44, s 45 and s 357 of the *Fair Work Act*, under s 546 of the *Fair Work Act*, ISG Management is liable to pay a pecuniary penalty to the Applicant.

Independent Contractors Act 2006 (Cth)

260. In the alternative to paragraphs 228 to 255 above, if the workers were independent contractors of ISG Management, the Applicant makes the following claim under the *Independent Contractors Act 2006 (Cth)* (***Independent Contractors Act***).

261. Each of:

- a. the 2013 Tickets of Work Agreement;
- b. the October 2015 Tickets of Work Agreement; and
- c. the November 2016 Agreement,

was a “*services contract*” within the meaning of s 5 of the *Independent Contractors Act*.

Particulars

- (i) Each agreement was an agreement to which an independent contractor was a party.
- (ii) Each agreement related to the performance of work by the independent contractor.
- (iii) Each agreement had a relevant “*constitutional connection*” within the meaning of s 5(2), in that ISG Management is a “*constitutional corporation*” within the meaning of s 4.

262. Each of:

- a. the 2013 Tickets of Work Agreement;
- b. the October 2015 Tickets of Work Agreement; and
- c. the November 2016 Agreement,

was “*unfair*” and/or “*harsh*” within the meaning of s 12 of the *Independent Contractors Act*.

Particulars

- (i) The Applicant repeats paragraphs 220 to 227 above.

- (ii) The Applicant repeats paragraphs 252 to 255 above.
- (iii) The Applicant says further that each agreement was “*unfair*” or “*harsh*” because, in substance, he provided the same services as an employee, but received less remuneration.

263. In the circumstances, each of:

- a. the 2013 Tickets of Work Agreement;
- b. the October 2015 Tickets of Work Agreement; and
- c. the November 2016 Agreement,

is amenable to being varied under s 16 of the *Independent Contractors Act* in order to put the Applicant in the position he would have been in had he been an employee, by inserting a term that ISG Management pay the appropriate sum to the Applicant.

Particulars

The Applicant repeats the particulars to paragraph 255 above.

Date: ~~21 November 2018~~



Signed by Vicky Antzoulatos
Lawyer for the Applicant

This pleading was prepared by Ian Pike SC, Jonathon Dooley (of counsel), and Vicky Antzoulatos, lawyer.

Certificate of lawyer

I Vicky Antzoulatos certify to the Court that, in relation to the statement of claim filed on behalf of the Applicant, the factual and legal material available to me at present provides a proper basis for each allegation in the pleading.

Date: ~~21 November 2018~~



Signed by Vicky Antzoulatos
Lawyer for the Applicant