

Standard Contract of Employment

For Executive Officers of Joint Organisations

July 2022



Acknowledgement of Country

The Department of Planning and Environment acknowledges that it stands on Aboriginal land. We acknowledge the Traditional Custodians of the land and we show our respect for Elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

Department of Planning and Environment

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Standard Contract of Employment for Executive Officers of Joint Organisations

Release date:

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Contract of Employment

This Contract of Employment is made on

Date

between

Name of Joint Organisation

[Referred to in this contract as "the Joint Organisation"]

Address

and

Name of Employee

[Referred to in this contract as "the employee"]

Address

1. Position

The position to which this contract applies is that of Executive Officer¹.

2. Term

Subject to the terms and conditions in this contract, the Joint Organisation will employ the employee for a term of:

[Length of term]² _____

commencing on [date] _____

and terminating on [date] _____

3. Definitions

3.1 In this contract, unless otherwise stated or indicated:

the Act means the *Local Government Act 1993*.

Chief Executive means Departmental Chief Executive for the purposes of section 338 of the Act or their delegate.

Code of conduct means the document within the meaning of section 440 of the Act adopted by the Joint Organisation and which incorporates the provisions of the *Model Code of Conduct for Local Councils in NSW* prescribed by the Regulation.

Commencement date means the date that this contract commences as specified in clause 2.

Confidential information means any and all confidential information, data, reports, operations, dealings, records, materials, plans, statistics, finances or other agreements and things (other than that which is already in the public domain), whether written or oral and of whatever type or nature relating to

¹ Note: A person who has held civic office in relation to the Joint Organisation must not be appointed to any paid position on the staff of the Joint Organisation within 6 months after ceasing to hold the office: sections 354 and 400ZH of the Act.

² Note: The term of this contract must not be less than 12 months or more than 5 years (including any option for renewal): sections 338(2) and 400ZH of the Act.

property, assets, liabilities, finances, dealings or functions of the Joint Organisation or a member council or any undertaking from time to time carried out by the Joint Organisation or a member council.

Equal employment opportunity management plan means the document a joint organisation must prepare under Part 4 of Chapter 11 of the Act.

Member council means each council whose area is within the Joint Organisation area.

Minister means the New South Wales Minister for Local Government.

Month means a calendar month.

Performance agreement means the agreement referred to in clause 7.

Performance criteria means the criteria to which a performance review is to have regard.

Performance review means a review of the employee's performance conducted in accordance with the procedures under clause 7.

the position means the position referred to in clause 1.

the Regulation means the *Local Government (General) Regulation 2021*.

Senior executive office holder (New South Wales Public Service) means the holder of a Public Service senior executive position within the meaning of the *Government Sector Employment Act 2013*.

Statutory and Other Officers Remuneration Tribunal means the Statutory and Other Officers Tribunal constituted under the *Statutory and Other Officers Remuneration Act 1975*.

Termination date means the date that this contract terminates as specified in clause 2.

- 3.2 Expressions in this contract corresponding with expressions that are defined in the Act have those meanings.

4. Contract operation and application

- 4.1 This contract constitutes a contract of employment for the purposes of section 338 of the Act and governs the employment of the employee while in the position.
- 4.2 A reference in this contract to any Act or regulation, or any provision of any Act or regulation, includes a reference to subsequent amendments of that Act, regulation or provision.
- 4.3 A reference to a Schedule to this contract refers to a Schedule as may be varied in accordance with this contract and applies whether or not the Schedule has been physically attached to this contract.
- 4.4 Where the chairperson or any other person is lawfully authorised to act as the Joint Organisation or its delegate for the purpose of this contract, this contract will be construed as if:
- a) any reference to the Joint Organisation includes a reference to that authorised person, and
 - b) any reference to a requirement for Joint Organisation's approval includes a reference to a requirement for that authorised person's written approval.
- 4.5 Any staff entitlement arising from a lawful policy of the Joint Organisation and that is set out in Schedule A will apply to the employee unless this contract expressly provides otherwise. Schedule A may be varied from time to time by agreement between the employee and the Joint Organisation. Such agreement is not to be unreasonably withheld³.
- 4.6 Subject to clauses 7 and 13 the terms of this contract, as varied from time to time in accordance with this contract, represent the entire terms of all agreements between the employee and the Joint Organisation and replace all other representations, understandings or arrangements made between the employee and the Joint Organisation that relate to the employment of the employee in the position⁴.

³ Note: Only those policies that create entitlements are to be set out in Schedule A. Schedule A policies are distinct from those which create a duty or function which are not required to be set out in Schedule A.

⁴ Note: The contract authorises the making of agreements that are linked to the contract. Clause 7 requires the parties to sign a performance agreement. Clause 13 allows either party to require the other to sign a confidentiality agreement for the purpose of protecting intellectual property.

5. Renewal of appointment

- 5.1 At least 9 months before the termination date (or 6 months if the term of employment is for less than 3 years) the employee will apply to the Joint Organisation in writing if seeking re-appointment to the position.
- 5.2 At least 6 months before the termination date (or 3 months if the term of employment is for less than 3 years) the Joint Organisation will respond to the employee's application referred to in subclause 5.1 by notifying the employee in writing of its decision to either offer the employee a new contract of employment (and on what terms) or decline the employee's application for re-appointment.
- 5.3 At least 3 months before the termination date (or 1 month if the term of employment is for less than 3 years) the employee will notify the Joint Organisation in writing of the employee's decision to either accept or decline any offer made by the Joint Organisation under subclause 5.2.
- 5.4 In the event the employee accepts an offer by the Joint Organisation to enter into a new contract of employment, a new contract of employment will be signed.
- 5.5 Approval may be sought from the Chief Executive to vary the timeframes prescribed within clause 5 in exceptional or unforeseen circumstances.

6. Duties and functions

- 6.1 The employee will:
 - 6.1.1 carry out the duties and functions imposed by law with respect to the position and the additional duties and functions specified in Schedule B⁵, which include and are not limited to:
 - a) conducting the day-to-day management of the Joint Organisation in accordance with the strategic regional priorities and other plans, programs, strategies and policies of the Joint Organisation,⁶
 - b) implementing, without delay, lawful decisions of the Joint Organisation,⁷
 - c) exercising the functions of the Executive Officer prescribed under the Act and the Regulation⁸
 - d) ensuring the efficient and effective operation of the Joint Organisations organisation,

⁵ Note: Schedule B may include additional duties and functions, for example, those related to special projects.

⁶ Note: Section 400Y of the Act.

⁷ Note: Section 400Y of the Act

⁸ Note: The functions of an executive officer are prescribed under section 400Y of the Act. The Act and Regulation also confer other functions on executive officers.

- e) exercising such of the functions of the Joint Organisation as are delegated by the Joint Organisation to the employee,⁹
- f) determining the organisation structure (other than senior staff positions) after consulting with the Joint Organisation,¹⁰
- g) appointing staff in accordance with the Joint Organisation's organisation structure and the resources approved by the Joint Organisation,¹¹
- h) directing and dismissing staff,¹²
- i) implementing the Joint Organisation's equal employment opportunity management plan,
- j) consulting with the Joint Organisation prior to appointing or dismissing senior staff,¹³
- k) giving immediate notice to the Joint Organisation on becoming bankrupt or making a composition, arrangement or assignment for the benefit of the employee's creditors and providing the Joint Organisation, within the time specified by the Joint Organisation with any further information concerning the cause of the bankruptcy or of the making of the composition, arrangement or assignment,¹⁴
- l) subject to subclause 6.3.3, providing advice and recommendations to the Joint Organisation or the chairperson if directed to do so,
- m) not engaging, for remuneration, in private employment or contract work outside the service of the Joint Organisation without the approval of the Joint Organisation,¹⁵
- n) prohibiting, where appropriate, any member of the Joint Organisation's staff from engaging, for remuneration, in private employment or contract work outside the service of the Joint Organisation that relates to the business of the Joint Organisation or that might conflict with the staff member's Joint Organisation duties,¹⁶
- o) acting honestly and exercising a reasonable degree of care and diligence in carrying out the employee's duties and functions,¹⁷

⁹ Note: section 400Y and 400ZE of the Act

¹⁰ Note: section 332(1A) of the Act

¹¹ Note: section 400Y(2) of the Act

¹² Note: section 400Y(2) of the Act

¹³ Note: section 337 of the Act

¹⁴ Note: section 341 of the Act

¹⁵ Note: section 353(1) of the Act

¹⁶ Note: section 353(3) of the Act

¹⁷ Note: section 439 of the Act

- p) complying with the code of conduct,¹⁸
 - q) preparing and submitting written returns of interest and disclosing pecuniary interests and non-pecuniary conflicts of interest in accordance with the code of conduct¹⁹
- 6.1.2 to the best of their ability, meet the performance criteria set out in the performance agreement as varied from time to time,
 - 6.1.3 carry out the duties and functions set out in the policies of the Joint Organisation as adopted by the Joint Organisation from time to time during the term of this contract,
 - 6.1.4 observe and carry out all lawful directions given by the Joint Organisation, in relation to the performance of the employee's duties and functions under this contract,
 - 6.1.5 work such reasonable hours as are necessary to carry out the duties and functions of the position and the employee's obligations under this contract,
 - 6.1.6 obtain the approval of the Joint Organisation for any absences from the business of the Joint Organisation,
 - 6.1.7 promote ethical work practices and maintain a culture of integrity and professionalism where the Joint Organisation's staff members treat each other, members of the Board, councillors, staff and delegates of member councils, members of the public, customers and service providers with respect and fairness,
 - 6.1.8 promote and facilitate compliance with the code of conduct ensuring that each member of the Board of the Joint Organisation and the Joint Organisation's staff is familiar with its provisions,
 - 6.1.9 facilitate the Joint Organisation's staff awareness of the procedures for making public interest disclosures and of the protection provided by the *Public Interest Disclosures Act 1994*
 - 6.1.10 take all reasonable steps to ensure a safe workplace and to facilitate compliance with the *Work Health and Safety Act 2011*,
 - 6.1.11 take all reasonable steps to ensure that actions and policies of the Joint Organisation accord with the strategic intent of the Joint Organisation,
 - 6.1.12 take all reasonable steps to maximise compliance with relevant legislative requirements,
 - 6.1.13 maintain effective corporate and human resource planning,
 - 6.1.14 maintain the Joint Organisation's staff performance management system,
 - 6.1.15 maintain satisfactory operation of the Joint Organisation's internal controls, reporting systems (including public interest disclosures), grievance procedures, the documentation of decision-making and sound financial management, and

¹⁸ Note: section 440(5) of the Act

¹⁹ Note: the Code of Conduct

- 6.1.16 report to the Joint Organisation on any overseas travel taken by the employee or any Joint Organisation staff member where that travel is funded in whole or in part by the Joint Organisation.
- 6.2 The employee's performance is monitored through the performance agreement and review process.
- 6.3 The Joint Organisation will:
 - 6.3.1 provide adequate resources to enable the employee to carry out the duties and functions specified in subclause 6.1 and Schedule B,
 - 6.3.2 provide the employee with reasonable opportunities to participate in professional development initiatives relevant to the duties and functions under this contract subject to the operational needs of the Joint Organisation, and
 - 6.3.3 not direct the employee as to the content of any advice or recommendation made by the employee²⁰

7. Performance agreement and review

- 7.1 Within 3 months after the commencement date, the employee and the Joint Organisation will sign a performance agreement setting out agreed performance criteria.
- 7.2 In the event that the employee and Joint Organisation are unable to agree on the performance criteria, the Joint Organisation will determine such performance criteria that are reasonable and consistent with the employee's duties and functions under clause 6.1.
- 7.3 The performance agreement may be varied from time to time during the term of this contract by agreement between the employee and the Joint Organisation, such agreement not to be unreasonably withheld.
- 7.4 Within 2 months after signing or varying the performance agreement, the employee will prepare and submit to the Joint Organisation an action plan which sets out how the performance criteria are to be met.
- 7.5 The Joint Organisation will ensure that the employee's performance is reviewed (and, where appropriate, the performance agreement varied) at least annually. Any such review is to have regard to the performance criteria²¹.
- 7.6 The employee will give the Joint Organisation 21 days' written notice that an annual performance review in accordance with subclause 7.5 is due.

²⁰ Note: section 352 of the Act

²¹ Note: The Joint Organisation may review the employee's performance every 6 months or more frequently if necessary.

- 7.7 The Joint Organisation will give the employee at least 10 days' notice in writing that any performance review is to be conducted.
- 7.8 The structure and process of the performance review is at the discretion of the Joint Organisation following consultation with the employee.
- 7.9 The employee may prepare and submit to the Joint Organisation an assessment of the employee's own performance prior to a performance review.
- 7.10 Within 6 weeks from the conclusion of a performance review, the Joint Organisation will prepare and send to the employee a written statement that sets out:
- a) the Joint Organisation's conclusions about the employee's performance during the performance review period,
 - b) any proposal by the Joint Organisation to vary the performance criteria as a consequence of a performance review, and
 - c) any directions or recommendations made by the Joint Organisation to the employee in relation to the employee's future performance of the duties of the position.
- 7.11 The employee and the Joint Organisation will, as soon as possible after the employee receives the written statement referred to in subclause 7.10, attempt to come to agreement on any proposal by the Joint Organisation to vary the performance criteria and on any recommendations by the Joint Organisation as to the future performance of the duties of the position by the employee.
- 7.12 The performance agreement, action plan and any associated records that contain information about the work performance or conduct of the employee are to remain confidential unless otherwise agreed to by the employee or required by law.
- 7.13 Subject to the employee being available and willing to attend a performance review, the Joint Organisation undertakes that if a performance review is not held in accordance with this clause, this will not operate to the prejudice of the employee unless the employee is responsible for the failure to hold the performance review.

8. Remuneration

- 8.1 The Joint Organisation will provide the employee with the total remuneration package set out in Schedule C.

- 8.2 The total remuneration package includes salary, compulsory employer superannuation contributions and other benefits including any fringe benefits tax payable on such benefits²².
- 8.3 On each anniversary of the commencement date, the total remuneration package will be increased by a percentage amount that is equivalent to the latest percentage amount increase in remuneration for senior executive office holders as determined by the Statutory and Other Officers Remuneration Tribunal²³.
- 8.4 In addition to clause 8.3, the remuneration payable to the employee can be increased by the following means:
- a) Each year, the Joint Organisation may approve an increase in the remuneration for the employee where the performance of the employee following the annual performance review is better than satisfactory. Such an increase will apply for a twelve-month period only unless the Joint Organisation otherwise determines that such a pay rise is to apply for the duration of the contract.
 - b) The Joint Organisation may on one occasion during the term of the contract approve the payment of a retention bonus. The retention bonus is accrued on an annual, pro-rata basis for the remainder of the term of the contract and is to be paid to the employee at the end of the contract period. The retention bonus is not paid to the employee where the contract is terminated under paragraphs (a), (b), (d) or (e) of subclause 10.3.1 or subclause 10.4.
- 8.5 Any increase in remuneration approved under subclause 8.3 and paragraph (a) of subclause 8.4 will not be paid as a lump sum.
- 8.6 The structure of the total remuneration package may be varied from time to time during the term of this contract by agreement between the employee and Joint Organisation, such agreement not to be unreasonably withheld.
- 8.7 The total remuneration package, as varied from time to time in accordance with subclauses 8.3 and 8.4, remunerates the employee for all work undertaken by the employee while in the position. No other remuneration, benefit, overtime or

²² Note: Compulsory employer superannuation contributions are those contributions required under the *Superannuation Guarantee (Administration) Act 1992* of the Commonwealth or, in the case of an employee who is a member of a defined benefit division of the Local Government Superannuation Scheme (or equivalent), the long term or “notional” employer contribution, as advised by the Actuary for the Local Government Superannuation Scheme from time to time. See Schedule C.

²³ Note: When making determinations referred to in subclause 8.3, the Tribunal takes into account key national economic indicators and movements in public sector remuneration across Australia, market conditions, the Consumer Price Index and wages growth as measured by the Wage Cost Index. Tribunal determinations are published in the Government Gazette. The Public Service Commission issues periodic Memoranda summarising the Tribunals determinations, this information is available at <http://www.psc.nsw.gov.au/>

allowances other than those to which the employee may be entitled under this contract will be paid to the employee during the term of this contract.

9. Leave

9.1 General

9.1.1 The Joint Organisation will pay remuneration calculated in accordance with Schedule C to the employee proceeding on paid leave under this clause.

9.1.2 On the termination of this contract, and if the employee is not re-appointed to the position under clause 5 or appointed to any other position in the Joint Organisation's organisation structure, the Joint Organisation will pay:

- a) to the employee in the case of annual leave, or
- b) to the employee or new employer council in the case of long service leave,

accrued but unused leave entitlements calculated at the monetary value of the total remuneration package as specified in Schedule C.

9.1.3 If the employee is re-appointed to the position under clause 5 or appointed to any other position in the Joint Organisation's organisation structure within 3 months after the termination of this contract, the employee will be taken to have continuing service with Joint Organisation for the purpose of determining the employee's entitlement to annual leave, long service leave and sick leave.

9.1.4 Any leave accrued with the Joint Organisation standing to the credit of the employee immediately prior to entering into this contract will be taken to be leave for the purposes of this contract.

9.2 Annual leave

The employee is entitled to four weeks paid annual leave during each year of employment under this contract to be taken as agreed between the employee and the Joint Organisation.

9.3 Long service leave

9.3.1 The employee's entitlement to long service leave is to be calculated by the same method that applies to a non-senior member of the Joint Organisation's staff.

9.3.2 Long service leave is transferable between joint organisations and between joint organisation and councils in New South Wales in the same manner that applies to a non-senior member of the Joint Organisation's staff.

9.4 Sick leave

9.4.1 The employee is entitled to 15 days paid sick leave during each year of employment under this contract provided that:

- a) the Joint Organisation is satisfied that the sickness is such that it justifies time off, and
- b) satisfactory proof of illness to justify payment is provided to the Joint Organisation for absences in excess of two days.

9.4.2 Sick leave will accumulate from year to year of employment under this contract so that any balance of leave not taken in any one year may be taken in a subsequent year.

9.4.3 The Joint Organisation may require the employee to attend a doctor nominated by the Joint Organisation at the Joint Organisation's cost.

9.4.4 Accrued but unused sick leave will not be paid out on the termination of this contract.

9.5 Parental leave

9.5.1 Parental leave includes supporting parent's leave, maternity leave, paternity leave and adoption leave.

9.5.2 The employee is entitled to the same parental leave that a non-senior member of the Joint Organisation's staff would be entitled.

9.6 Carer's leave

The employee is entitled to the same carer's leave that a non-senior member of the Joint Organisation's staff would be entitled.

9.7 Concessional leave

The employee is entitled to the same concessional leave that a non-senior member of the Joint Organisation's staff would be entitled.

9.8 Special leave

The Joint Organisation may grant special leave, with or without pay, to the employee for a period as determined by the Joint Organisation to cover any specific matter approved by the Joint Organisation.

10. Termination

10.1 General

On termination of this contract for any reason the employee will immediately return to the Joint Organisation all property of the Joint Organisation in the employee's

possession including intellectual property and confidential information and will not keep or make any copies of such property and information.

10.2 Termination date

The employment of the employee under this contract terminates on the termination date.

10.3 Termination by either the employee or the Joint Organisation

10.3.1 This contract may be terminated before the termination date by way of any of the following:

- a) written agreement between the employee and the Joint Organisation,
- b) the employee giving 4 weeks' written notice to the Joint Organisation,
- c) the Joint Organisation giving 4 weeks' written notice to the employee, or alternatively by termination payment under subclause 11.1, where:
 - i. the employee has been incapacitated for a period of not less than 12 weeks and the employee's entitlement to sick leave has been exhausted, and
 - ii. the duration of the employee's incapacity remains indefinite or is likely to be for a period that would make it unreasonable for the contract to be continued.
- d) the Joint Organisation giving 13 weeks' written notice to the employee, or alternatively, by termination payment under subclause 11.2 where the Joint Organisation:
 - i. has conducted a performance review, and
 - ii. concluded that the employee has not substantially met the performance criteria or the terms of the performance agreement, and
 - iii. has afforded the employee a reasonable opportunity to utilise the dispute resolution procedures in this contract.
- e) the Joint Organisation giving 38 weeks' written notice to the employee, or alternatively, by termination payment under subclause 11.3.

10.3.2 When terminating this contract under paragraph (e) of subclause 10.3.1, the Joint Organisation must give the employee its reasons in writing for terminating the contract if the employee requests that reasons be given.

10.3.3 If either party requests it and both parties agree to it, the Joint Organisation and the employee may participate in mediation under clause 17 in relation to the Joint Organisation's intention to terminate the contract under paragraph (e) of subclause 10.3.1.

10.3.4 If the Joint Organisation does not agree to participate in mediation with the employee under subclause 10.3.3, the Joint Organisation must provide reasons in writing for its decision to the employee if they request that reasons be given.

10.4 Summary dismissal

10.4.1 The Joint Organisation may terminate this contract at any time and without notice if the employee commits any act that would entitle an employer to summarily dismiss the employee. Such acts include but are not limited to:

- a) serious or persistent breach of any of the terms of this contract,
- b) serious and wilful disobedience of any reasonable and lawful instruction or direction given by the Joint Organisation,
- c) serious and wilful misconduct, dishonesty, insubordination or neglect in the discharge of the employee's duties and functions under this contract,
- d) failure to comply with any law or the Joint Organisation's policy concerning sexual harassment or racial or religious vilification,
- e) serious or persistent breach of the code of conduct,
- f) commission of a crime, resulting in conviction and sentencing (whether or not by way of periodic detention), which affects the employee's ability to perform the employee's duties and functions satisfactorily, or in the opinion of the Joint Organisation brings the Joint Organisation into disrepute,
- g) absence from the business of the Joint Organisation without the Joint Organisation's approval for a period of 3 or more consecutive business days.

10.4.2 This contract is terminated immediately without notice if:

- a) the employee is or becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with their creditors or makes an assignment of their remuneration for their benefit, or
- b) the employee is disqualified from managing a corporation under Part 2D.6 of the *Corporations Act 2001* of the Commonwealth.

11. Termination payments

11.1 On termination of this contract under paragraph (c) of subclause 10.3.1, where written notice has not been given, the Joint Organisation will pay the employee

a monetary amount equivalent to 4 weeks' remuneration calculated in accordance with Schedule C.

- 11.2 On termination of this contract under paragraph (d) of subclause 10.3.1, where written notice has not been given, the Joint Organisation will pay the employee a monetary amount equivalent to 13 weeks' remuneration calculated in accordance with Schedule C.
- 11.3 On termination of this contract under paragraph (e) of subclause 10.3.1, where written notice has not been given, the Joint Organisation will pay the employee a monetary amount equivalent to 38 weeks' remuneration calculated in accordance with Schedule C, or the remuneration which the employee would have received if the employee had been employed by the Joint Organisation to the termination date, whichever is the lesser.
- 11.4 On termination of this contract under paragraphs (a) or (b) of subclause 10.3.1, or subclauses 10.4.1 or 10.4.2, the Joint Organisation will pay the employee remuneration up to and including the date of termination calculated in accordance with Schedule C and any other payment to which the employee is entitled under this contract.

12. Expenses and credit cards

- 12.1 In addition to any duties or entitlements that may be set out in any relevant policies of the Joint Organisation as adopted by the Joint Organisation from time to time, the employee will:
 - a) keep such records of expenses, travel and motor vehicle use as required by the Joint Organisation from time to time,
 - b) be reimbursed by the Joint Organisation for expenses properly incurred on Joint Organisation business, subject to the Joint Organisation's prior approval to this expense being incurred,
 - c) only use any credit card provided by the Joint Organisation for expenses incurred on Joint Organisation business, and
 - d) return any credit card provided by the Joint Organisation on request from the Joint Organisation.

13. Intellectual property

- 13.1 Any literary work, computer program, invention, design, patent, copyright, trademark, improvement or idea developed by the employee in the course of employment under this contract is the sole property of the Joint Organisation and the Joint Organisation will unless otherwise agreed have the exclusive right to use, adapt, patent and otherwise register it.

- 13.2 The employee will immediately disclose to the Joint Organisation any literary work, computer program, invention, design, patent, copyright, trademark, improvement or idea developed by the employee after the commencement date to enable the Joint Organisation to ascertain whether it was discovered, developed or produced wholly outside and wholly unconnected with the course of employment under this contract.
- 13.3 To protect disclosures made in accordance with subclause 13.2, the Joint Organisation or the employee may require a confidentiality agreement to be signed prior to, during or immediately after discussion of the intellectual property being considered²⁴.
- 13.4 The employee assigns to the Joint Organisation by way of future assignment all copyright, design, design right and other property rights (if any) in respect to any literary work, computer program, invention, design, patent, copyright, trademark, improvement or idea developed by the employee in the course of employment under this contract.
- 13.5 At the request and expense of the Joint Organisation the employee will complete all necessary deeds and documents and take all action necessary to vest in the Joint Organisation any literary work, computer program, invention, design, patent, copyright, trademark, improvement or idea developed by the employee in the course of employment under this contract and obtain for the Joint Organisation the full benefit of all patent, trademark, copyright and other forms of protection throughout the world.

14. Confidential Information

The employee will not divulge any confidential information about the Joint Organisation or a member council either during or after the term of their employment under this contract.

15. Waiver

The failure of either the employee or the Joint Organisation to enforce at any time any provision of this contract or any right under this contract or to exercise any election in this contract will in no way be considered to be a waiver of such provision, right or election and will not affect the validity of this contract.

²⁴ Note: IP Australia, the Commonwealth Government intellectual property agency, has developed an Intellectual Property Contract Generator for the purpose of preparing intellectual property non-disclosure agreements. It is available at www.ipaustralia.gov.au.

16. Inconsistency and severance

- 16.1 Each provision of this contract will be read and construed independently of the other provisions so that if one or more are held to be invalid for any reason, then the remaining provisions will be held to be valid.
- 16.2 If a provision of this document is found to be void or unenforceable but would be valid if some part were deleted, the provision will apply with such modification as may be necessary to make it valid and effective.

17. Dispute resolution

- 17.1 In relation to any matter under this contract that may be in dispute, either the employee or the Joint Organisation may:
- a) give written notice to each other of the particulars of any matter in dispute, and
 - b) within 14 days of receiving a notice specified in paragraph (a) of subclause 17.1, a meeting will be convened between the Joint Organisation (along with any nominated representative of the Joint Organisation) and the employee (along with any nominated representative of the employee) in an attempt to resolve the dispute.
- 17.2 The employee and the Joint Organisation will attempt to resolve the dispute at the workplace level.
- 17.3 Upon failure to resolve the dispute at the workplace level, the employee and the Joint Organisation will:
- a) refer the dispute to an independent mediator as agreed by the employee and the Joint Organisation, or otherwise as appointed by the Chief Executive. (A mediator may be agreed between the employee and the employer when the contract is made),
 - b) agree to participate in any mediation process in good faith, with such mediation to operate in a manner as agreed by the employee and the Joint Organisation, and
 - c) acknowledge the right of either the employee or the Joint Organisation to appoint, in writing, another person to act on their behalf in relation to any mediation process.
- 17.4 The cost of the mediation service will be met by the Joint Organisation.
- 17.5 The employee and the Joint Organisation will each be responsible for meeting the cost of any advisor or nominated representative used by them.

18. Service of notices and communications

18.1 Any communication, including notices, relating to this contract will be in writing and served on the employee or the Joint Organisation:

- a) in the case of service by express post or post, at their last known residential or business address, or
- b) in the case of service by email, to their email address recorded in this contract or such other email address as they may subsequently notify the other in writing.

18.2 Any written communication including notices relating to this contract is taken to be served:

- a) when delivered or served in person, immediately,
- b) where served by express post at an address within New South Wales in the Express Post Network, on the next business day after it is posted,
- c) where served by post otherwise in the ordinary course of postage, as set down in Australia Post's delivery standards, and
- d) where sent by email within standard business hours, on the day it was sent, or if sent outside of business hours, on the next business day after it is sent.

19. Variations

19.1 Where this contract provides that its terms may be varied, that variation will be by agreement in writing signed by the employee and the Joint Organisation²⁵.

19.2 Where the Chief Executive approves an amended or substitution standard form of contract for the employment of the executive officer of a joint organisation, the provisions of this contract may be varied by agreement between the employee and the Joint Organisation to the extent that they are consistent with the provisions of that amended or substitution standard form of contract²⁶.

²⁵ Note: See clauses 4.5, 7.3, 8.3, 8.4 and 19.2.

²⁶ Note: See section 338 of the Act.

20. Other terms and conditions

- 20.1 The employee and the Joint Organisation acknowledge that they have sought or had the opportunity to seek their own legal and financial advice prior to entering this contract.
- 20.2 In accordance with section 731 of the Act, nothing in this contract gives rise to any action, liability, claim or demand against the Minister, the Chief Executive or any person acting under their direction.

21. Signed by the employee and the Joint Organisation

THE JOINT ORGANISATION:

The Seal of

[Joint Organisation name]

[Seal]

affixed by authority of a resolution of the Joint Organisation²⁷.

Signed
by the Joint Organisation

Date

Name of signatory 1
in full *[printed]*

Office held *[printed]*

Signed by Witness

Name of Witness
in full *[printed]*

Name of signatory 2
in full *[printed]*

Office held *[printed]*

Signed by Witness

²⁷ Note: Sections 400 and 397A of the Regulation

Name of Witness
in full *[printed]*

THE EMPLOYEE:

Signed
by the employee

Date

Name of employee
in full *[printed]*

Signed by Witness

Name of Witness
in full *[printed]*

Schedule A – Joint Organisation policies

Note: This Schedule may be varied during the term of this contract in accordance with subclauses 4.5 and 19.1 of this contract.

This Schedule operates on and from

Date

For the purposes of subclause 4.5 of this contract, the following policies apply to the employee:

Signed by the Joint Organisation

Signed by the employee

Schedule B - Duties and functions

Note: This Schedule may be varied during the term of this contract in accordance with clause 6 and 19.1 of this contract.

This Schedule operates on and from

Date _____

The employee's position description forms Schedule B of this contract.

In addition to the duties and functions specified in clause 6 of this contract, the employee will carry out the duties and functions as identified in the employees position description.

Signed by the Joint Organisation _____

Signed by the employee _____

Schedule C - Remuneration

Note: This Schedule may be varied during the term of this contract in accordance with subclauses 8.7 and 19.1 of this contract.

This Schedule operates on and from

Date _____

The Annual Total Remuneration Package is as follows:

\$ _____

The Total Remuneration Package is comprised of:

ANNUAL REMUNERATION	\$

The employee agrees and acknowledges that deductions under subclause 8.2 of this contract are made principally for the benefit of the employee and that the Joint Organisation relies on that statement in providing the non-cash benefits requested by the employee.

In the case of an employee who is a member of a defined benefit division of the Local Government Superannuation Scheme (or equivalent) compulsory employer superannuation contributions are the long term or “notional” employer contribution, as advised by the Actuary for the Local Government Superannuation Scheme from time to time.

The employee’s superable salary will be the amount of the total remuneration package less the amount of compulsory superannuation contributions.

Signed by the Joint Organisation

Signed by the employee
