

# AGREEMENT TO SUPPLY SERVICES



The Success Group agrees to perform the Services described in the Statement of Work for the Client, and the Client agrees to pay the Fees, on the terms set out in the general terms and conditions (**General Terms**).

The General Terms (and schedules referred to in the General Terms) are available at <http://thesuccessgroup.co.nz> and may be amended by the Success Group from time to time.

## STATEMENT OF WORK

<b>1. Client:</b>	
<b>2. Services</b> (Please tick one or more boxes to indicate which Services you require)  (refer clause 1.3 of the General Terms)	LABOUR HIRE AND RECRUITMENT
	CONSTRUCTSAFE TESTING
	METHAMPHETAMINE TESTING
	WORKPLACE DRUG TESTING AND CORPORATE HEALTH CHECK
	IMMIGRATION SUPPORT
	HUMAN RESOURCES AND/OR HEALTH AND SAFETY SUPPORT AND ADVICE
<b>3. DESCRIPTION OF WORK:</b> (attach further pages if required)  (refer clause 1.2 of General Terms)	
<b>4. Fees:</b> (refer clauses 1.2, 2 of the General Terms)	
<b>5. Success Group contact details:</b>	Consultant:
	Telephone:
<b>6. Client contact details:</b>	Contact Person:
	Email:
	Telephone:

SIGNED on behalf of the Success Group

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

**DECLARATION:** I confirm on behalf of the Client that I have had an opportunity to read the General Terms and this Statement of Work and I accept them fully.

SIGNED on behalf of the Client by its duly authorised signatory:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Date

## GENERAL TERMS AND CONDITIONS

**1. PROVISION OF SERVICES**

- 1.1** The Success Group Limited (**Success Group**) offers a number of different services which the Client may wish to engage the Success Group to perform (**Services**).
- 1.2** The parties will agree on a statement of work (**Statement of Work**) detailing the Services that the Client has engaged the Success Group to perform. The Success Group shall perform the Services in accordance with the Statement of Work and these general terms and conditions (**General Terms**), and the Client shall pay the Success Group the fees in accordance with the Statement of Work (**Fees**).
- 1.3** In addition to the General Terms, the following specific terms (**Specific Terms**) shall apply:
- (a) Schedule 1 applies to Labour Hire and Recruitment Services.
  - (b) Schedule 2 applies to Constructsafe Testing Services.
  - (c) Schedule 3 applies to Methamphetamine Testing Services.
  - (d) Schedule 4 applies to Workplace Drug testing and Corporate Health Check Services.
  - (e) Schedule 5 applies to Immigration Support Services.
  - (f) Schedule 6 applies to Human Resources and/or Health and Safety support and advice.
- 1.4** In the event of a conflict, the Statement of Work shall prevail over the Specific Terms, and the Specific Terms shall prevail over the General Terms.
- 1.5** A Statement of Work may be completed in the form provided in this agreement, or in any other written format (for example, via an email exchange between parties).
- 1.6** Notwithstanding clauses 1.2 and 1.3, the General Terms and relevant Specific Terms will continue to apply for all Services provided by the Success Group to the Client, even if the parties fail to complete a Statement of Work.
- 1.7** Every time the Client uses the Success Group Services it is deemed to reconfirmation of the Client's agreement to the General Terms and the relevant Specific Terms.

**2. FEES AND PAYMENT**

- 2.1** The Client will pay all Fees invoiced by the Success Group within 7 days following the receipt of invoice.
- 2.2** The Fees may be reviewed and amended by the Success Group as notified to the Client from time to time.
- 2.3** If the Client fails to pay any amount due under this agreement, the Success Group may without prejudice to its other rights require the Client to pay interest on the amount due from the due date until the date of payment, at a rate equal to 5% above the current overdraft rate that the Success Group has with its principal banker (in addition to the Client remaining liable for the full amount outstanding).
- 2.4** Any expenses, disbursements and legal costs incurred by the Success Group in the enforcement of any rights contained in this contract shall be paid by the Client, including any reasonable solicitors' fees or debt collection agency fees.
- 2.5** All sums payable by the Client shall be made in full without set-off or counterclaim and, except to the extent required by law, free and clear of any deduction on account of tax or otherwise. A dispute, mediation, or arbitration, between the Success Group and the Client, does not entitle the Client to set off against, or withhold payment of, any money owed to the Success Group.
- 2.6** Unless specifically stated to the contrary in the Specific Terms or Statement of Work, the Services shall be performed on a Time and Materials Basis. The Client bears the risk of cost overruns and delays on work performed on a Time and Materials Basis.
- 2.7** In respect of Services performed by the Success Group on a time and materials basis, the Success Group shall report monthly to the Client the time charged and expenses incurred. Such reports are not in substitution for invoices.
- 2.8** All Fees noted in this agreement are GST exclusive unless stated otherwise, and are in New Zealand Dollars.
- 2.9** If more than one person or entity is listed as the Client, each person or entity is jointly and severally liable for payment of all Fees and other charges.

**3. LIABILITY & LIMITATION**

- 3.1** The Success Group would also like all clients to be aware that circumstances can change at short notice that are beyond the control of the Success Group, such as changes in governmental legislation and policy. To the maximum extent permitted by law, any and all liability and responsibility of the Success Group to you or any other person under this agreement is excluded regardless of whether such liability arises in contract, tort (including negligence), equity, breach of statutory duty or otherwise. The Success Group's liability and responsibility is excluded

in respect of any and all loss or damage, whether direct or indirect, including, without limitation, loss of profits, loss of data, loss of business or anticipated savings, general and special damages, and consequential and incidental loss.

- 3.2** The Success Group shall not have any liability or responsibility to the Client for any loss which does not flow directly or naturally (i.e. in the ordinary course of things) from a breach of this agreement including, in each case consequential loss of business or profits or other loss. The Success Group shall only be liable for losses (excluding loss of business or profits) which flow directly or naturally from a breach of this agreement up to a maximum of the amount paid by the Client for the Services for the six-week period preceding the date of the event giving rise to the claim under this agreement.

- 3.3** Without limiting clause 3.1 in any way, under no circumstances shall the Success Group be held liable for any delay or failure in performance resulting directly or indirectly from acts of nature, forces, or causes beyond its reasonable control, including, without limitation, internet failures, computer equipment failures, telecommunication equipment failures, other equipment failures, electrical power failures, strikes, labour disputes, riots, insurrections, civil disturbances, shortages of labour or materials, fires, floods, storms, explosions, acts of God, war, governmental actions, orders of domestic or foreign courts or tribunals, non-performance of third parties, or loss of or fluctuations in heat, light, or air conditioning.

**4. INTELLECTUAL PROPERTY**

- 4.1** **Intellectual Property** means all intellectual property and proprietary rights (whether registered or unregistered) owned by the Success Group prior to performance of the Services, developed by the Success Group in performance of the Services or developed by the Success Group outside of, or after, performance of the Services, and without limitation includes business names, trade or service marks, any right to have information (including confidential information) kept confidential, patents, patent applications, drawings, discoveries, inventions, improvements, trade secrets, technical data, formulae, databases, know-how, logos, designs, design rights, copyright, manuals, protocols, procedures, manuscripts or documentary records, whether in print form or electronically and similar industrial or intellectual property rights.
- 4.2** All Success Group Intellectual Property will remain the property of the Success Group.
- 4.3** The Success Group grants to the Client a world-wide, non-exclusive, royalty free licence to use the Success Group Intellectual Property for the purpose agreed to between the Client and the Success Group to the extent that it is needed for the enjoyment and benefit of the Services.
- 4.4** If this agreement is suspended or terminated by either party the Client shall cease to use the Supplier's Intellectual Property.
- 4.5** The Success Group agrees to keep confidential all information relating to the Client or any client of the Client, which is at any time made available to the Success Group.

**5. SUSPENSION AND TERMINATION**

- 5.1** The Success Group may suspend its obligation to supply the Services if a dispute is raised in accordance with clause 7, until that dispute has been resolved, or if the Success Group has notified the Client that the Client breached this agreement, and the Client has failed to remedy that breach.
- 5.2** Either the Success Group or the Client may terminate this agreement by providing written notice of not less than 3 months to the other.
- 5.3** Either party may terminate this agreement immediately by notice in writing, upon:
- (a) the other party committing any breach of this agreement that is incapable of remedy;
  - (b) the other party failing to remedy any breach of this agreement that is capable of remedy within 30 days of notice of that breach having been given by the non-defaulting party to the other party; and
  - (c) the commencement of liquidation or the insolvency of the other party (except for the purposes of solvent amalgamation or reconstruction) or upon the appointment of a receiver, statutory manager or trustee of the other party's property.

**6. FORCE MAJEURE**

- 6.1** Either party may suspend its obligations to perform this agreement if it is unable to perform as a direct result of a war, riot, strike, natural or man-made disaster or other circumstance of a similar nature (**Force Majeure Event**). Any such suspension of performance must be limited to the period during which the Force Majeure Event continues.
- 6.2** Where a party's obligations have been suspended pursuant to clause 6.1 for a period of 30 days or more, the other party may immediately terminate this agreement by giving notice in writing to the other party.

**7. DISPUTE RESOLUTION**

- 7.1** Where any dispute arises between the parties concerning this agreement or the circumstances, representations, or conduct giving rise to the agreement, no party may commence any court or arbitration proceedings relating to the dispute unless that party has complied with the procedures set out in this clause 7.
- 7.2** The party initiating the dispute (**the first party**) must provide written notice of the dispute to the other party (**the other party**) and nominate in that notice the first party's representative for the negotiations. The other party must within seven days of receipt of the notice give written notice to the first party, naming its representative for the negotiations. Each representative nominated shall have authority to settle or resolve the dispute.
- 7.3** If the parties are unable to resolve the dispute by discussion and negotiation within 14 days of receipt of the written notice from the first party, then the parties must immediately refer the dispute to mediation.
- 7.4** The mediation must be conducted in terms of the LEADR New Zealand Inc Standard Mediation agreement. The mediation must be conducted by a mediator at a fee agreed by the parties. Failing agreement between the parties, the mediator shall be selected and his or her fee determined by the Chair for the time being of LEADR New Zealand Inc.

**8. GENERAL**

- 8.1** The Client shall not assign its rights under this agreement.
- 8.2** This agreement constitutes the complete and exclusive statement of the agreement between the parties, superseding all proposals or prior agreements, oral or written, and all other communications between the parties relating to the subject matter of this agreement.
- 8.3** No amendment to this agreement will be effective unless it is in writing and signed by both parties.
- 8.4** No exercise or failure to exercise or delay in exercising any right or remedy by a party shall constitute a waiver by that party of that or any other right or remedy available to it.
- 8.5** Any provision of this agreement that is illegal, invalid or unenforceable will be severed to the extent that it is illegal, invalid or unenforceable, with the remainder of the agreement continuing in full force.
- 8.6** The agreements, obligations and warranties contained in this agreement shall not merge on completion of the transactions contemplated by it but shall remain in full force until satisfied.
- 8.7** Services provided to all business Clients or for commercial purposes are expressly excluded from all provisions under Consumer Guarantees Act 1993.
- 8.8** This agreement may be executed in two or more counterparts, all of which together will be deemed to constitute one and the same agreement.
- 8.9** This agreement shall be governed by New Zealand law, and the parties submit to the non-exclusive jurisdiction of the courts of New Zealand.
- 8.10** "We" and "us" both refer to the Success Group. "You" and "your" both refer to the Client.

**9. WARRANTY:**

- 9.1** Where the Client is a company, the person(s) signing this agreement on behalf of the Client personally warrant(s) that:
- (a) That person or those persons have the power to enter into, and have properly signed this agreement in accordance with the terms of the Companies Act 1993 and/or the Client's constitution;
  - (b) The Client will perform its obligations under this agreement.

**10. CONFIDENTIAL INFORMATION**

- 10.1** The Success Group will hold all information provided by the Client in strict confidence, and will not divulge any such information except where required for directly performing the Services, permitted to do so by law, or where the Client expressly or impliedly authorises such disclosure.

## SCHEDULE 1: LABOUR HIRE AND RECRUITMENT

**1. BACKGROUND AND DEFINITIONS**

**1.1** This Schedule 1 applies in addition to the General Terms where the Client engages the Success Group to provide the services of a casual worker, or to assist with the recruitment of a permanent employee.

**1.2** The term **candidate** refers to both casual workers, and permanent employees.

**2. RATES AND PAYMENTS – CASUAL CANDIDATES**

**2.1** Casual candidates are paid by the Success Group only. The Success Group is responsible for the wages, annual leave, statutory holiday pay, KiwiSaver, ACC levies, bereavement leave, special leave and taxation of the casual candidates.

**2.2** The fee for casual assignments is based on an hourly rate, charged for each hour that the candidate has worked for the Client, with a minimum charge of four (4) hours per day per candidate.

**2.3** The Client will be invoiced weekly for work carried out by a casual candidate, pursuant to the weekly timesheet authorised by the Client (or pursuant to such other information provided by the Client where a timesheet has not been provided).

**2.4** The rates for all casual assignments may vary according to the availability and skill sets of the appropriate candidate, general industry rates, and any external influences (including, but not limited to, general wage orders, legislation, fees, or levies). Rates will be recorded in the Statement of Work.

**2.5** The candidate will only commence work once the rate has been agreed to by both the Success Group and the Client.

**3. RATES AND PAYMENTS – PERMANENT CANDIDATES**

**3.1** Permanent candidates are paid by the Client only. The Client is responsible for the wages, annual leave, statutory holiday pay, KiwiSaver, ACC levies, bereavement leave, special leave and taxation of the permanent candidates.

**3.2** The placement fee (**Placement Fee**) for the engagement of a permanent candidate becomes payable the Client's offer and candidate's acceptance of employment, and is a percentage of the full annual income package (**Commencing Income**), as recorded in the Statement of Work. If a Placement Fee is not recorded in the Statement of Work, it will be calculated as 18% of the Commencing Income.

**3.3** Commencing Income is the summation of salary or wages, commissions, bonus, allowances and all other forms of remuneration. When remuneration contains incentive rewards, the estimated annual income in the first year of service applies. Where a Client vehicle is part of the package, it is valued at a nominal amount of up to \$10,000 per annum.

**3.4** The minimum fee chargeable for a permanent placement is \$3,000.

**4. STATUTORY HOLIDAYS**

**4.1** Notwithstanding clause 2.1, the Client (and not the Success Group) will be liable to pay for the Christmas and New Year statutory holidays if the candidate starts with the Client after 1 December, and is to return to the same assignment after the 2nd January.

**4.2** In accordance with the Holidays Act 2003, candidates required to work on statutory holidays must be paid time and a half for the time worked, and also be paid a day in lieu. These extra penal rates will be passed on to the Client, but will be at cost only.

**5. CONTINUED EMPLOYMENT**

**5.1** All casual candidates are under contract and employed by the Success Group. If a casual candidate is employed in any capacity by the Client, or by any other person or entity following a referral or introduction by the Client, within twelve months of referral by the Success Group, and/or negotiations between the Success Group and the Client, the Client will pay a Placement Fee to the Success Group calculated in accordance with clause 3.2.

**5.2** No casual candidate can transfer to the Client's employment unless the Client's account with the Success Group is paid in full, including payment of the Placement Fee (if required by clause 5.1).

**6. CANCELLATION**

**6.1** Any cancellation of an assignment by the Client must be advised to the Success Group (not the candidate) as soon as possible. Notification to the candidate on the assignment is **not** notice of cancellation to the Success

Group.

**6.2** If less than twelve hours notice of cancellation of a casual assignment is given, the Client will pay the Success Group a fee equal to four (4) hours at the agreed hourly rate.

**6.3** If the Client cancels a permanent placement request before the role has been filled and more than three weeks after the work has been requested, the Client will pay the Success Group their reasonable costs incurred for work carried out by the Success Group which will be a minimum charge of \$750.00 plus GST plus any advertising costs that have been incurred for the role.

**7. SUBSTITUTION**

**7.1** The Success Group, at its sole discretion may substitute one candidate for another on any casual assignment.

**8. GUARANTEE**

**8.1** If a casual candidate is found to be unsatisfactory by the Client within four (4) hours of the start of their assignment and the Success Group is informed within that time, then no charges will be incurred by the Client in respect of that candidate.

**8.2** If a candidate in a permanent placement is found to be unsatisfactory by the Client and ceases to be employed by the Client within three months of the start of their assignment and the Success Group is informed within that time, then the Success Group undertakes to replace the candidate. When a replacement is made the original fee will be credited and a new invoice issued, based on the same fee structure. If a replacement is not required or if a suitable replacement cannot be found within a reasonable period, the Success Group will issue a credit, to be offset against future fees, calculated as follows:

(a) 75% of the fee for termination in the first month.

(b) 50% of the fee for termination in the second month.

(c) 25% of the fee for termination in the third month.

**8.3** The replacement guarantee applies only if the full fee has been paid within 14 days of the candidate's commencement. However, it does not apply when redundancy, merger, takeover, company closure, relocation, restructuring, change of job specification or employment contract, or change of management affects the appointment. The guarantee will not apply beyond one replacement. If the guarantee is invalidated the Client will not be entitled to receive replacement candidates and the fee will remain due.

**9. LIABILITY**

**9.1** The Success Group makes every effort to ensure that the candidate provided has the skills and ability required for the assignment. Notwithstanding this, the Client will:

(a) Supervise, direct and control the candidate while on assignment.

(b) Be responsible for all acts and omissions of the candidate.

**9.2** If a casual candidate is put forward by the Success Group to the Client for a permanent role, the Client has absolute discretion and liability as to the employment of that candidate.

**9.3** The Success Group will ensure that all candidates supplied for an assignment will be familiar with the type of work that they are required to perform. They will also be advised of the general nature of any dangers relating to the work environment they are being placed into. The Client will have the final responsibility of determining the fitness for purpose of the candidate.

**9.4** The Success Group will not be liable for any loss, damage or expense suffered by the Client or any third party from the acts or omissions of a candidate.

**9.5** The Client indemnifies the Success Group against any loss, damage or expense suffered by the Success Group arising from any act or omission of a candidate on assignment to the Client.

**9.6** The provision of this clause 9 shall continue to bind the parties and their successors, after any assignment or placement has ended.

**9.7** The Success Group will use all reasonable endeavours to source and locate candidates to meet the needs of the Client however the Success Group shall not be liable for any losses or damages to the Client if the Success Group cannot or do not supply any such candidates.

**10. WORK PLACE HEALTH AND SAFETY**

**10.1** The Client will provide the Success Group with a full and complete job description of the duties that the candidate will be required to perform and will ensure that the candidate has read and understood, all policies that the

Client has in place before the casual worker begins work on site.

**10.2** The Success Group and the Client (each as a PCBU under the Health and Safety at Work Act 2015 (**HSWA**)) acknowledge they each have responsibilities for the safety and health of casual candidates, including the duty to eliminate or minimise risks to health and safety (as the case may be) so far as is reasonably practicable, and an obligation to consult, co-operate, and co-ordinate with each other in respect of that duty. The Client acknowledges that:

(a) The Client manages and/or controls the place of work of the candidate, and that the Success Group does not.

(b) If there is a prosecution under the HSWA, the Client may be liable for any penalties, as well as the Success Group, as determined by that prosecution.

(c) The Client warrants that it will comply with its duties under the HSWA and any regulations made under it, including the duty to consult, co-operate and co-ordinate activities with the Success Group where the parties have the same duty. In particular (and without limitation) the Client warrants that:

(i) They have a health & safety policy and plan in place and will supply the candidate with a safe workplace at all times.

(ii) They shall have an effective risk assessment and control process in place and will make those available to the Success Group upon request.

(iii) They will advise the Success Group of any required Health & Safety training/induction so that the Success Group can ensure the candidate attends.

(iv) They will provide the candidate with appropriate supervision to ensure the safe completion of each assignment.

(v) They will consult, co-operate and co-ordinate with the Success Group when managing all Health and Safety matters where a candidate is on the worksite.

(vi) If the client is supplying the candidate with any tools or equipment, this must be appropriate for the task and the safe completion of each assignment.

(vii) They will ensure all incidents/near hits involving the worker are reported to the Success Group immediately and will co-operate with any investigation the Success Group undertakes in respect of the incident/near hit. Where practicable the Client will assist in the return to work of the candidate.

(viii) They will allow a Success Group representative on site to assess specific site conditions in relation to Health and Safety, and to assist in the appropriate selection of candidates for the assignment.

**10.3** If a casual candidate is injured while working for the Client, the Success Group will be liable for the first five (5) days ACC payments to the candidate. The Client will be liable for the balance.

**11. GENERAL**

**11.1** The candidate is not covered for any loss or damage under the Success Group's insurance policy. The Client undertakes to ensure that the candidate is adequately insured against any liability to third parties arising out of the candidate's acts or omissions while on an assignment.

**11.2** The candidate shall not be required to use his or her own vehicle during an assignment.

**11.3** Advertising for any placement will not be commissioned by the Success Group until discussed and agreed to by the Client. All advertising costs will be paid for by the Client.

**12. TESTING AND REFERENCE CHECKING**

**12.1** Testing and reference checking of candidates is carried out by the Success Group as standard procedure for a candidate registering with the Success Group.

**12.2** The Success Group will use its best endeavors to make known to the Client the candidate's employment records, qualifications and salary requirements as accurately and objectively as possible. The Success Group shall not be liable for any inaccuracies or misinterpretations or untrue statement made by the candidate.

**12.3** Except where expressly precluded by the candidate or operation of law the Success Group will not withhold from the Client any information known to it concerning the candidate which may adversely affect the client.

## SCHEDULE 2: CONSTRUCTSAFE TESTING

**1. BACKGROUND**

**1.1** This Schedule 2 applies in addition to the General Terms where the Client engages the Success Group to provide the services of Constructsafe Testing.

**2. CONSTRUCTSAFE**

**2.1** Constructsafe is a government owned and operated organisation, comprising of representatives from the construction industry, from ACC, and from Worksafe.

**2.2** The Success Group offers Constructsafe testing, which is a computer-based assessment of the Health and Safety knowledge of the candidate at the time that they carry out the test. It comprises of a database of 300 questions, with a random selection of 50 questions is presented to the candidate when they start their test.

**3. CONSTRUCTSAFE TESTING**

**3.1** Constructsafe testing can be undertaken at either the Success Group or Client premises. If it is undertaken at the Clients premises, it is the responsibility of the Client to ensure that there is sufficient broadband capacity.

**3.2** Constructsafe testing is completed under the following conditions:

- (a) All assessment will be completed on computers supplied by the Success Group.
- (b) The candidate must have no outside input at all. Phones must be turned off, no paperwork can be brought into the assessment, and no talking is allowed.
- (c) The candidate will have the opportunity to review their answers before submitting the test to Constructsafe, but will not receive any guidance on the answers that they have given. On completion, the result is emailed directly to Constructsafe.
- (d) The candidate must wear headphones. Questions are spoken as well as written, so that literacy issues are minimised. Questions will be read aloud to the candidate if required.
- (e) An 86% pass rate is required for all tests (including re-sits). If the first test is failed, the candidate can sit a second test immediately. A surcharge may apply for the

second test.

(f) If the second test is failed, a full fee is then applicable for the third test, and if needed, a surcharge may apply for the fourth test.

(g) The Success Group has no ability to influence the results, and is not able to change the candidate scores.

(h) The Success Group's sole responsibility is to register, monitor, and supervise the assessment. No training or advice is to be given.

**3.3** The Success Group accepts no liability for any non-performance of the candidates, or failure to pass by any of them.

**4. CONSTRUCTSAFE TRAINING**

**4.1** The Success Group does offer a separate training program that can be delivered independently of the Constructsafe assessment service, if required by the Client. There is no guarantee that all candidate who completes such training will pass the a Constructsafe assessment.

## SCHEDULE 3: METHAMPHETAMINE TESTING

**1. BACKGROUND**

**1.1** This Schedule 3 applies in addition to the General Terms where the Client engages the Success Group to provide the services of Methamphetamine Testing.

**2. TESTING**

**2.1** It is the Client's sole responsibility to make its own assessment of the suitability for any purpose of the Services, detection limits and confidence intervals inherent in the Success Group's standard testing methodology, the Success Group Report and its contents.

**2.2** If the Client requires the Services to be performed by specific test method, or requires detection limits and/or confidence intervals different to those inherent in the Success Group's standard testing methodology, then the Client must instruct the Success Group of such a variation prior to the Success Group performing the Services.

**3. REPORTS**

**3.1** Any reports, findings, results, statement or certification issued by the Success Group (**Success Group Report**) is issued based on testing of samples or materials, information, or documents provided by, or on behalf of, the Client. The Client will indemnify and hold harmless the Success Group, its officers, employees, agents and subcontractors for any claim whatsoever in relation to any Success Group Report arising from unclear, erroneous, incomplete, misleading or false information provided to the Success Group; or arising from any incorrect or defective materials or samples provided to the Success Group.

**3.2** Each Success Group Report is:

- (a) Issued on the testing of samples or specific materials using detection limits and confidence intervals inherent in the Success Group's testing methodologies; and
- (b) Contains the Success Group's results and opinions (if provided) on those samples or specific materials only.

**3.3** Each Success Group Report is solely for the benefit of the Client, its officers and employees, and subject to the following terms:

- (a) The Success Group Report has been commissioned by the Client on the terms and conditions contained in this agreement;
- (b) The Success Group Report has been prepared at the request of the Client for the Purpose agreed between the Client and the Success Group. The Client may disclose the report to a third party for that purpose only,

but the Success Group does not accept any responsibility or liability (including, without limitation, liability for negligence) to that third party. Any disclosure to a third party must be of the whole of the Success Group report, including The Success Group's disclaimer notice which is substantially the same as the terms outlined in this clause.

(c) While the Success Group has taken all due care to ensure that the information contained in the Success Group Report is true and correct and is not misleading or deceptive, neither the Success Group, nor any of its officers, employees or agents make any representations or warranties, express or implied, other than to the Client, as to the accuracy of the information contained therein. Except insofar as liability under any law cannot be excluded, the Success Group accepts no responsibility arising in respect of the information contained in the Success Group Report for errors or omissions (including responsibility to any person by reason of negligence); and

(d) The Success Group reserves its right to review, update or supplement any Success Group Report. Any further information will be provided subject to the terms of this agreement.

**3.4** The Client will not reproduce or publish extracts of any Success Group Report without the prior written consent of the Success Group.

**3.5** The Client indemnifies the Success Group, its directors, employees, agents, consultants, contractors, successors in title and assigns against any claim made against any or all of them by third party; or any reproduction or publication of an extract of any Success Group Report.

**4. PAYMENT**

**4.1** Payment for Services shall be made in full prior to the Success Group going to site or immediately upon making a booking whichever is the earliest of the two options.

**4.2** If the Client cancels a job within 24 hours prior to attendance, the Success Group reserves the right to charge the Client a cancellation fee.

**4.3** The Success Group will work with the Client to agree a mutually agreeable time and date to undertake testing. If this condition is breached by the Client, the Client will forfeit the Fee.

**5. LIMITATION OF LIABILITY**

**5.1** To the full extent permitted by law, The Success Group excludes all warranties, terms, conditions or undertakings, whether expressed or implied

(**Warranties**), in relation to the Services, the Success Group Report, or its contents. Where any legislation implies any Warranties in this agreement that cannot be modified or excluded, then such Warranties shall deem to be included. However, to the full extent permitted by law, the Success Group's liability to the Client for any breach of any Warranties that cannot be excluded by law is limited at the Success Group's option to the re-performance of the Services or the refund of the fee for the Services.

**6. CLIENT'S OBLIGATIONS**

**6.1** The Client warrants they have obtained necessary permissions to arrange the test and are legally able to grant access to the property as the owner, tenant, property manager, real estate agent or owner's agent.

**6.2** The Client warrants the information provided is correct and not misleading.

**6.3** The Client will ensure that all personnel, information, samples, test materials, access to facilities and infrastructure, assistance, records, documentation, and facilities needed by The Success Group to perform the Services, are available when reasonably required by The Success Group.

**6.4** The Client will give written notices to The Success Group of all known safety or health hazards and special procedures applicable to the performance of the Services and the safe handling, testing, storage, transport, and disposal of samples submitted to The Success Group (including whether or not the disposal of samples may cause contamination) or the Client's facilities or infrastructure in which The Success Group is partly or wholly performing the Services. The Success Group may in its absolute discretion, refuse to provide part or all the Services where it determines that the provision of part or all the Services may pose a health or safety hazard.

**6.5** The Client must take all necessary steps to remove or remedy any known safety or health hazards, or any obstacles to or anything that is likely to interrupt the performance of the Services by The Success Group.

**6.6** The Client shall indemnify The Success Group and keep The Success Group indemnified against, any claim, liability, loss (including consequential loss and loss of profit), damage or expense (including lawyer's fees) made against, or suffered or incurred, by The Success Group and arising from or out of any breach by the client of the warranty claimed in clause 6.

## SCHEDULE 4: WORKPLACE DRUG TESTING AND CORPORATE HEALTH CHECKS

**1. BACKGROUND**

**1.1** This Schedule 4 applies in addition to the General Terms where the Client engages the Success Group to provide drug testing and corporate health checks.

**2. PRE-EMPLOYMENT MEDICAL CHECKS**

**2.1** The following tests are available as part of our pre-employment medical checks:

(a) Lung function: We use an electronic spirometer to measure lung function with an instant result, which will be discussed with the participant. The test takes approximately 3–5 minutes.

(b) Blood pressure: We will use either a small electronic device or the more traditional manual equipment to

measure blood pressure. If possible, participants should wear loose clothing, so we can put the blood pressure cuff above the elbow.

(c) BMI (Body Mass Index): This is calculated using weight and height measurements. It is a useful assessment tool in identifying risk factors for heart disease and other health-related problems.

(d) Vision screening: Tests include near and far acuity (short and long-sightedness), stereopsis (depth perception), colour vision, night vision and peripheral vision.

(e) Hearing: We test hearing to the Approved Code of Practice for Noise Management. This test takes approximately 10 minutes and requires a reasonably

quiet environment.

(f) Range of motion assessment: This is useful in establishing the range of movement the participant is able to complete in order to ensure he or she will be able to carry out the physical requirements of the position applied for.

**2.2** All medical checks are carried out by suitably trained and or qualified nurses or technicians.

**2.3** Details of all checks will be kept on file for 30 years, and in accordance with the Privacy Act 1993.

**2.4** If you specifically require a male or a female to conduct the checks, you must notify us at least 7 working days in advance of the date of checking.

**3. DRUG TESTING**

**3.1** The Success Group provides drug testing for most recreational drugs and can often provide instant reports if the presence of drugs is found.

**4. URINE DRUG TESTING**

**4.1** Urine testing allows the employer to identify employees who are at risk of being impaired at work because of drug use, and who are therefore a potential hazard in the workplace.

**4.2** This testing may indicate the use of drugs by an employee a sufficient time before commencement or recommencement of work, or use either at work or

outside of work hours.

**4.3** We check for the following Drugs:

- (a) THC;
- (b) Cocaine;
- (c) Amphetamine;
- (d) Methamphetamine;
- (e) Benzodiazepines; and
- (f) Opiates.

**4.4** Results for these tests can be instant with a "Negative" result or "Requires further testing". Further testing can then be completed by sending the sample off for analysis

at an approved third-party facility.

**5. SYNTHETIC TESTING**

**5.1** The testing is for both synthetic cannabis and AMP synthetic cathinones as both these compounds offer a real risk in the workplace due to how they are made and their unpredictable effects on the user.

**5.2** Although synthetic cannabis is not mentioned in the AS/NZS4308:2008 standard, you need to be aware that you are obligated to provide a safe working environment for all staff, and synthetic cannabis DOES cause impairment.

**SCHEDULE 5: IMMIGRATION SUPPORT SERVICES**

**1. BACKGROUND**

**1.1** This Schedule 5 applies in addition to the General Terms where the Client engages the Success Group to provide immigration advisory services and support (**Immigration Services**).

**2. WE REPRESENT YOU**

**2.1** You engage the Success Group to act as your agent to provide the Immigration Services and you authorise us to represent you in all dealings with an immigration consultant of either your choice or ours. We may also act on your behalf, during provision of the Immigration Services, with other agencies and organisations as necessary to provision the Immigration Services.

**2.2** We will act in your best interests and carry out our obligations to you to a high standard.

**2.3** We will manage the initial preparation of immigration documentation, submission with the immigration consultant and continual oversight of the process through to the immigration application decision and we will regularly communicate with you throughout this process.

**2.4** You agree that we are authorised to use and disclose the information we collect from you to provide the Immigration Services. Where you provide us with personal information about any other person to enable us to provide the Immigration Services, you confirm that you have the authority from those persons to disclose such information and to authorise us to use and disclose the information in order to provide the Immigration Services.

**2.5** We may share your personal information with

authorised service providers to which we outsource certain functions and with the immigration consultant.

**2.6** In accordance with the Privacy Act 1993, you have a right to access any personal information we hold about you and correct any personal information that may be incorrect. If you wish to request access to, or correction of, any personal information held by us, please contact us and we will action your request.

**2.7** You acknowledge that the final decision of whether a visa or permit is granted is made by Immigration New Zealand.

**3. YOUR OBLIGATIONS**

**3.1** You must respond promptly to all our requests to enable us to perform the Immigration Services.

**3.2** All information you provide to us must be complete, accurate, truthful and provided within the specified timeframes. We reserve the right to cease to act where you cannot or will not provide instructions required by us or where we are of the opinion that you have misled or deceived us in any material way. If we do cease to act in accordance with this clause, you will still be responsible for payment of our fees for our services incurred to date.

**3.3** By instructing us to provide the Immigration Services for you, you accept liability to pay the invoices that we will render for work done together with all expenses incurred in respect of your instructions or those of the Candidate, and you agree to be bound by the terms of this Agreement.

**3.4** You acknowledge that the Success Group Limited shall not be responsible or liable for any losses, costs,

expenses or damages however incurred (direct, indirect or consequential) arising out of or in connection with the decisions made by the immigration consultant.

**4. FEES AND PAYMENT**

**4.1** Fees charged to you by us do not incur New Zealand goods and services tax (GST) if you are based overseas for the entire duration of the Immigration Services. This is deemed an international service and therefore not subject to New Zealand taxes. If you are in New Zealand at any time during the course of the Immigration Services, all Fees will then be subject to GST at the then current rate (currently, an additional 15%), including retrospectively on the initial deposit. You must pay us the GST charged on the Fees in accordance with clause.

**5. ADDITIONAL EXPENSES**

**5.1** We will inform you of any potential additional expenses. These additional expenses are specifically excluded from the Fee and are to be paid directly by you to the relevant company or organisation. Additional expenses may include, but are not limited to, Immigration New Zealand application fees and levies, registration documents and qualification assessment fees.

**6. DISCLOSURE OF INTEREST**

**6.1** We may recommend products or services from other companies to assist you with the migration process. We have assessed each of these companies based on reputation, quality of service and value for money. You are by no way bound to use these companies.

**SCHEDULE 6: HUMAN RESOURCES & HEALTH AND SAFETY SUPPORT AND ADVICE**

**1. BACKGROUND AND DEFINITIONS**

**1.1** This Schedule 6 applies in addition to the General Terms where the Client engages the Success Group to provide Human Resources and/or Health and Safety support and advice as part of an on-going subscription service (**Subscription Service**).

**1.2** **Authorised User** means the Client or employee, contractor, agent or other person associated with the Client who has been appointed to access the Success Group Library.

**1.3** **Success Group Document** means any individual, set, or grouping of documents from the Success Group Portfolio.

**1.4** **Success Group Library** means all of the Success Group handbooks, manuals, brochures, guidelines, templates and other documentation created by the Success Group for the purpose of providing Human Resources and/or Health and Safety support and advice.

**1.5** **Success Group Portfolio** means that part of the Success Group Library that the Success Group has agreed to grant access to the Client under this agreement.

**2. SUBSCRIPTION SERVICE**

**2.1** As well as offering advice on a one-off individual basis, the Success Group offers Human Resources and Health and Safety support and advice as an on-going Subscription Service. Clients may subscribe to the Success Group Subscription Service for a minimum period of 12 months, paid monthly in advance from the commencement of the Subscription Service (**Subscription Fee**).

**3. RIGHT OF ACCESS**

**3.1** Subscribers of the Subscription Service are granted a non-exclusive and non-assignable right to access the Success Group Portfolio.

**3.2** This right of access is limited, at any one time, to the number of concurrent Authorised Users recorded in the Statement of Work.

**4. CONDITIONS OF USE**

**4.1** You do not own any of the Success Group Documents, whether in electronic or hard copy form, obtained directly or indirectly from the Success Group Library. You acknowledge that copyright exists in each of the Success Group Documents and that full title to that copyright is at all times retained by Success Group.

**4.2** An Authorised User may download a single copy of a Success Group Document and retain that copy for temporary use on a personal computer for internal purposes only. Success Group Documents must not be downloaded on to a CD, data stick, or other portable device, or uploaded to cloud storage.

**4.3** All downloaded Success Group Documents must be deleted upon expiry or termination of your Subscription Service.

**4.4** The retention of downloaded Success Group Documents for the purposes of building up an electronic reference collection is expressly prohibited. At its sole discretion Success Group may require you to make a written declaration on behalf of all Authorised Users that destruction of all downloaded copies of Success Group Documents has occurred.

**4.5** Except as otherwise may be expressly permitted at law, you undertake not to modify, merge with other documents, or circulate including via electronic mail, even for your internal purposes, any part of any Success Group Document in any form without securing the prior written permission of the Success Group and you undertake to ensure that no Authorised Users will engage in such activity.

**4.6** Under no circumstances may a Success Group Document, whether in electronic or hard copy form, in full or in part, be sold, or transferred to a third party.

**4.7** Under no circumstances may any Success Group Document be placed on a network of any sort without

the prior written permission of Success Group.

**4.8** You will not modify, adapt, translate, reverse engineer, decompile, disassemble or create derivative works based on the Success Group Documents, or any part of them and you undertake to ensure that no Authorised User will engage in such activity without the prior written permission of Success Group.

**4.9** You undertake to keep all identification information, including logins and passwords, secret and secure and you further undertake to ensure that each Authorised User does the same. Without limiting the foregoing, you agree:

- (a) not to permit any third party to use an Authorised User's login;
- (b) not to disclose, or provide to any third party, an Authorised User's password or any information that may allow them to gain access to the Success Group Library using an Authorised User's identification; and
- (c) to, at all times, use all reasonable efforts to ensure that no improper or unauthorised use of any Authorised User's identification information is made.

**4.10** You undertake to ensure that no Authorised User attempts to damage, interfere with, or harm the Success Group website or any network or system underlying or connected to the Success Group Library, including by using a robot, spider, scraper or other automated means to access the website, the Success Group Library, or any of the Success Group Documents for any purpose.

**5. PRICING**

**5.1** The Success Group may, from time to time, alter the price it charges for access to the Success Group Library, however, if you are within your first 12 months of your Subscription Service, the changes will only apply to you from the expiry of those first 12 months.

**6. TERMINATION**

**6.1** During the initial contract period, you can terminate

- your contract after the first full year has passed by paying an early termination fee of 30% of the remaining contract balance. If you wish to terminate your contract before the first year has passed you will also be required to pay the remainder of the first year's fees. During any renewed contract, you can terminate your contract at any time by paying an early termination fee of 30% of the remaining contract balance.
- 6.2** The Success Group is not obligated in any way to provide a refund or credit for any portion of the Subscription Fee not utilised by you.
- 6.3** You remain obligated to pay your full Subscription Fee for the full term of the Subscription Service.
- 6.4** The Success Group reserves the right to terminate access without notice to the Success Group Library if payment of the Subscription Fee is not received by the due date.
- 6.5** At any time, the Success Group may give notice of a change to the Subscription Fee (which will apply to the next month of your subscription, provided that the Subscription Fee will not increase during your first 12 months).
- 6.6** The Success Group shall be entitled to terminate you (and your Authorised Users') access to the Success Group Library automatically and without notice if you or any of your Authorised Users fail to comply with any of these Specific Terms.
- 6.7** Upon termination of your Subscription, you and each Authorised User must destroy all copies of the Success Group Documents in your or their possession, power or under your or their control, including all partial copies, whether in electronic or hard copy form, directly or indirectly provided by the Success Group or from the Success Group Library. At its sole discretion The Success Group may require a written declaration from you that such destruction has occurred.
- 6.8** If, at any time during or after your Subscription the Success Group believes based on reasonable grounds that you or an Authorised User has breached any of these Specific Terms, you shall permit an independent information technology consultant to act as an auditor, within seven days of being provided notice thereof. You shall permit the auditor (or any other independent person appointed jointly by the Success Group and you) at a reasonable time during normal business hours (at the Success Group's expense) to inspect (and hereby permit such person to enter any building for such purpose) your and each of your Authorised Users' computers and records for the purpose of verifying compliance with these Specific Terms subject to the execution of an appropriate confidentiality agreement. It is also agreed that, for the avoidance of doubt, the auditor can disclose to the Success Group such information as is appropriate to enable the Success Group to have a full understanding of any report being provided by the auditor to The Success Group.
- 6.9** If as a result of the auditor's inspection any irregularities are found in the manner of compliance with these Specific Terms by any Authorised User, or at any other time the Success Group has factual evidence giving it reason to believe that there are irregularities in the manner of compliance of any Authorised User, and without prejudice to any other rights the Success Group may have, the Success Group shall be entitled, at its discretion:
- (a) to undertake a review relating to such irregularities and
- (b) to impose such further conditions relating to such irregularities as it deems reasonably necessary to ensure the proper performance under these Specific Terms, and / or to undertake a full review of you and your Authorised Users' performance under these Specific Terms and to impose such further conditions as it deems reasonably necessary to ensure the proper performance of all obligations under these Specific Terms.
- 7. GENERAL**
- 7.1** The Success Group is not aware of any inherent risk of viruses in any Success Group Document at the time that it is downloaded. The Success Group has exercised due diligence to ensure, so far as practicable, that such documents do not contain viruses.
- 7.2** The Success Group warrants that it will use reasonable endeavours to maintain the availability of access by Authorised Users to the The Success Group Documents in the Success Group Library during the continuation of your Subscription Service, such access being to a standard which accords with accepted industry practice applicable to services of the nature and of the type or kind of the Success Group Library service.
- 7.3** From time to time, the Success Group may alter the details of the Subscription Service and support it offers. Further details about the online service and support that Success Group is able to provide are available from the Success Group website.

**Cancellation Fees**

**Workplace Drug testing**

100% of quoted fee should the client be unable to provide a usable sample

**Constructsafe**

50% of quoted fee for any candidate that fails to attend a booked assessment

**Methamphetamine Testing**

50% of quoted fee if cancelled with less than 24 hours' notice

**Health Checks**

50% of quoted fee if cancelled with less than 24 hours' notice.