|  | Temporary and Contracted Workers |
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| D | Deed Poll of Confidentiality, Privacy and Conflicts of Interest |
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**DEED POLL OF CONFIDENTIALITY, PRIVACY AND CONFLICTS OF INTEREST** made by:

<<insert Worker's name>>

 (the “**Worker**”)

**in favour of:**Department of Transport & Main Roads ABN 39 407 690 291

 (the “**Customer**”)

**Recitals:**

1. The Worker is employed by an entity (the Supplier) which provides labour hire services to the Customer.
2. Under a labour hire contract, the Supplier has provided to the Customer the services of the Worker for a period (the Engagement). The Customer requires the Worker to perform particular services for it during the period of the Engagement (the Services).
3. In the course of the Worker working at the Customer’s premises, using the Customer’s information technology systems, or otherwise performing services for the Customer (whether directly or indirectly), the Worker may have access to or become aware of information belonging to or in the possession of the Customer that is Confidential Information and/or Personal Information or that may give rise to a Conflict of Interest.
4. Improper use or disclosure of either Confidential Information or Personal Information and/or the failure to disclose any Conflict of Interest to the Customer would severely damage the Customer’s ability to perform its governmental/statutory functions.
5. Any Personal Information held by the Customer is subject to the *Information Privacy Act 2009* (Qld).
6. The Worker undertakes that it will comply with the *Information Privacy Act 2009* (Qld) and gives other undertakings in relation to the collection, use, handling, distribution and disclosure of the Confidential Information and/or Personal Information and the management of Conflicts of Interest in accordance with the terms of this Deed.

**Agreed Covenants:**

**1. Recitals**

1. The Worker acknowledges the truth and accuracy of the Recitals.

**2. Definitions and Interpretation**

2.1 *Definitions*

In the interpretation of this Deed unless the contrary intention appears or the context otherwise requires or admits the following expressions shall have the following meanings:

“**Business Day**” means between 9am and 5pm on a day other than a Saturday, Sunday or public holiday at the Customer’s address;

“**Conflicts of Interest**” means having an interest (whether personal, financial or otherwise) which conflicts or may reasonably be perceived as conflicting with the ability of the Worker to perform the Services for the Customer, fairly and objectively; “Confidential Information” means information relating to, or obtained from, the Customer or the State that is not trivial and:

* + 1. is by its nature confidential; or
		2. is communicated to the Worker as confidential; or
		3. the Worker knows or ought to know is confidential.

 Subject to (a), (b) and (c) above, Confidential Information includes information which is:

1. comprised in or relating to any Intellectual Property Rights of the Customer or the State;
2. relating to the internal management and structure of the Customer, or the personnel, policies and strategies of the Customer or the State;
3. of any actual or potential commercial value to the Customer or the State or to the person or corporation which supplied that information;
4. accessible on or through the Customer’s ‘intranet’ or any other non-public IT systems of the Customer or the State;
5. information relating to the policies, strategies, practices and procedures of the Customer or the State and any information in the Supplier’s possession relating to the Customer or the State; or
6. in the Supplier’s possession relating to the Customer or the State, but does not include information which:
7. has become public knowledge (other than through a breach of an obligation of confidence); and/or
8. was independently developed or released by the Worker or Supplier without reference to Confidential Information.

**“Deed”** means this deed poll of confidentiality, privacy and conflicts of interest;

**“Engagement”** means the Customer contracting with the Supplier to provide the services of the Worker to the Customer;

**"Intellectual Property Rights"** includes all copyright, trade mark, design, patent or other proprietary rights, or any rights to registration of such rights existing in Australia, or elsewhere or protected by legislation from time to time, whether created before on or after the date of this Deed;

**“Personal Information”** means information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about an individual whose identify is apparent, or can reasonably by ascertained, from the information or opinion;

**“Services”** means the services which the Worker provides, or is to provide, to the Customer arising out of, or in connection with the Engagement;

**“State”** means the State of Queensland;

**“Supplier”** means the employer of the Worker.

2.2 *Interpretation*

2.2.1 In this Deed, the clause headings have been inserted for ease of reference only and are not intended to affect the meaning or interpretation of this Deed.

* + 1. The following rules shall apply in interpreting this Deed, unless the context otherwise requires:
1. words in the singular include the plural and vice versa;
2. a reference to any legislation includes any subordinate legislation made under it and any legislation amending, consolidating or replacing it;
3. a reference to an entity or person includes an individual, corporation, partnership or other legal entity;
4. a party includes its executors, administrators, liquidators, successors and permitted assigns;
5. “consent” means prior written consent;
6. “in writing” means either by letter or email ;
7. a reference to a clause, Schedule, attachment or annexure is a reference to a clause, Schedule, attachment or annexure to this Deed;
8. if a day on which an act is to be done is a Saturday, Sunday or public holiday in the place where the act is to be done, the act may be done on the next Business Day in that place, unless the Customer agrees otherwise;
9. if any expression is defined, other grammatical forms of that expression will have corresponding meanings, unless the context otherwise requires;
10. a clause is a reference to all of its sub-clauses; and
11. a document or agreement or a provision of a document or agreement, is a reference to that document, agreement or provision as amended, supplemented, replaced or novated.

**3. Non Disclosure**

3.1 The Worker must not disclose the Confidential Information and/or Personal Information to any person without the consent of the Customer.

3.2 The Customer may grant or withhold its consent in its absolute and unfettered discretion.

3.3 If the Customer grants its consent, it may impose conditions on that consent. In particular, but without limiting the generality of the preceding sentence, the Customer may require that the Worker procure the execution of a deed of confidentiality and privacy (in terms satisfactory to the Customer) by the person to whom the Worker proposes to disclose the Confidential Information and/or Personal Information.

3.4 If the Customer grants consent subject to conditions, the Worker must comply with those conditions.

3.5 The obligations of the Worker under this Deed shall not be taken to have been breached where the Confidential Information and/or Personal Information is legally required to be disclosed.

**4. Restriction on Access and Use**

4.1 The Worker must use the Confidential Information and/or Personal Information only for the purposes of providing the Services to the Customer.

4.2 The Worker must not access or copy Confidential Information and/or Personal Information unless it is reasonably necessary to do so for the purposes of providing the Services to the Customer.

**5. Conflicts of Interest**

5.1 The Worker warrants that, to the best of his or her knowledge, as at the date of signing this Deed he or she does not have, and is not likely to have, a Conflict of Interest.

5.2 If a Conflict of Interest or risk of a Conflict of Interest arises during the period in which the Worker provides Services or other services to the Customer, the Worker must immediately give notice of the Conflict of Interest or the risk of the Conflict of Interest to the Customer.

**6. Powers of the Customer**

6.1 Production of Documents

 6.1.1 The Customer may demand (without needing to reduce the demand to writing) the delivery up to the Customer of all documents in the possession or control of the Worker containing Confidential Information and/or Personal Information.

 6.1.2 The Worker must immediately comply with a demand under this clause 6.

 6.1.3 If the Customer makes a demand under this clause 6, and the Worker has placed or is aware that documents containing the Confidential Information and/or Personal Information are beyond his or her possession or control, then the Worker must provide full particulars of the whereabouts of the documents containing the Confidential Information and/or Personal Information, and the identity of the person in whose custody or control they lie.

 6.1.4 In this clause 6, "documents" includes any form of storage of information, whether visible to the eye or not.

6.2 Legal Proceedings

 6.2.1 The Worker acknowledges that the Customer may take legal proceedings against the Worker or third parties if there is any actual, threatened or suspected breach of this Deed, including proceedings for an injunction to restrain such breach.

**7. Worker’s Undertaking**

7.1 The Worker undertakes:

 (a) not to access, copy, use, modify, disclose or retain any Confidential Information and/or Personal Information of the Customer, except for the purpose of providing the Services to the Customer ; and

 (b) in addition to any direction as to particular measures specified by the Customer, take all reasonable measures to ensure that any Confidential Information and/or Personal Information held in connection with the provision of Services to the Customer is protected against loss, unauthorised access, use, modification or disclosure and against other misuse.

**8. Acknowledgement by Worker**

8.1 The Worker undertakes that in signing this Deed:

 (a) he or she understands the Worker’s responsibilities in relation to Confidential Information and/or Personal Information and Conflicts of Interest;

 (b) he or she will not access, copy, use, modify, disclose or retain Confidential Information and/or Personal Information except in relation to the purpose of providing the Services to the Customer; and

 (c) he or she understands the possible consequences of breach of this Deed.

8.2 The Worker acknowledges that this Deed is made for the benefit of the Customer and may be enforced by the Customer.

**9. No Exclusion of Law or Equity**

9.1 This Deed must not be construed to exclude the operation of any principle of law or equity intended to protect and preserve the confidentiality of the Confidential Information and/or privacy of the Personal Information.

**10. Variation and** **Waiver**

10.1 This Deed shall not be varied either in law or in equity except by agreement in writing signed by the Customer and the Worker.

10.2 A waiver by the Customer of a breach of a provision of this Deed by the Worker shall not constitute a waiver in respect of any other breach or of any subsequent breach of this Deed. The failure of the Customer to enforce a provision of this Deed shall not be interpreted as a waiver of that provision.

**11. Applicable Law**

11.1 The laws of the State govern this Deed and the Worker submits to the non-exclusive jurisdiction of the courts of Queensland.

**12. Assignment**

12.1 The Worker must not assign, in whole or in part, or novate this Deed.

**13. Severability**

13.1 If any part of this Deed is determined to be invalid, unlawful or unenforceable for any reason then that part, to the extent of the invalidity, unlawfulness or unenforceability, will be served from the rest of the Deed and the remaining terms and conditions will continue to be valid and enforceable to the fullest extent permitted by law.

**14. Remedies Cumulative**

14.1 The rights and remedies provided under this Deed are cumulative and not exclusive of any rights or remedies provided by law or any other such right or remedy.

**15. Survival**

15.1 This Deed will survive the termination or expiry of the Engagement, the Services and any contract of employment or other arrangement between the Worker and the Supplier.

**16. Notices**

16.1 Any notice or other form of communication (a “notice”) which may be given to or served on the Worker under this Deed must be in writing and must be sent by prepaid postage or email or delivered by hand to the following address:
Customer:

 Physical address: 36-38 Cotton Street, Nerang QLD 4211

 Postal address: Po Box 442, Nerang QLD 4211

 Phone number: 0755636600

 Email address: southcoast@tmr.qld.gov.au

 Worker:

 Physical address: <<insert physical address of Worker>>

 Postal address: <<insert postal address of Worker>>

 Phone number: <<insert phone number of Worker>>

 Email address: <<insert email address of Worker>>

16.2 A notice will be deemed to be given:

if posted – two Business Days after the date of posting;

if delivered by hand during a Business Day – on the date of delivery;

or

if emailed – on the date of the email; except that an email received after 5.00pm (local time of the receiver) will be deemed to be given on the next Business Day.

**EXECUTED** as a deed poll.

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| Authorisation, Certification and Execution by the Worker |
| Signed, sealed and delivered by<<insert full name of Worker>> (*Worker*)this day of 20 in the presence of<<insert full name of witness>> (*Witness*) | )))))))))))) |  Signature of Worker Signature of witness |

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| ***Privacy Statement -*** *The Customer is collecting your personal information in this Deed in order to protect the Customer’s interests in relation to your compliance with the obligations under the Deed. This information will be stored by the Customer and may be used or disclosed by authorised employees and contractors of the Customer for the purposes of exercising the Customer’s rights pursuant to the Deed. Unless authorised or required by law, your personal information will not otherwise be disclosed to any third party without your consent.* |