



RSG INDEPENDENT WORKER AGREEMENT

BETWEEN: **Recruitment Specialist Group Limited trading as RSG Australia ("RSG")**

AND: _____ ("**Worker**")

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| <p>1. Definitions and Interpretation</p> <p>1.1. The following definitions apply in these Terms of Engagement:</p> <p>"Assignment" means the project or the services to be performed as identified in the Conditions of Assignment.</p> <p>"Client" means the person, firm or corporate body (together with any subsidiary or associated company as defined by the <i>Corporations Act 2001</i>) requiring the services of the Worker.</p> <p>"Confidential Information" includes, but is not limited to, the following:</p> <p>(a) any techniques, methods, programs, source code, object code, software, materials, documents or manuals of RSG or the Client used in the business of RSG and/or the Client (as the case may be); and</p> <p>(b) any information relating to the business affairs, accounts, marketing plans, prospects, research, management or finances of RSG or the Client (as the case may be); and</p> <p>(c) any databases, data surveys, customer lists, specifications, drawings, records, reports, software, any source information obtained or paid for by RSG or the Client (as the case may be); and</p> <p>(d) any other documents, material or other information whether in writing or otherwise concerning RSG or the Client (as the case may be) whatsoever.</p> <p>"Worker" means the individual named above.</p> <p>"Period of Assignment" means the period during which the Worker is engaged by RSG to perform the Assignment for the benefit of the Client.</p> <p>"Relevant Period" means the longer period of either:</p> <ol style="list-style-type: none"> 1. Fourteen weeks from the first date upon which the Worker worked for the Client; or 2. Eight weeks from the day after the Worker was last supplied by RSG to the Client. <p>1.2. Unless the context requires otherwise, references to the singular include the plural and vice versa.</p> <p>1.3. The headings contained in these Terms of Engagement are for convenience only and do not effect the interpretation of this document.</p> | <p>2. The Contract</p> <p>2.1. In consideration of RSG endeavouring to obtain suitable Assignments for the Worker to work within the medical and healthcare professions in Australia for the benefit of the Worker, the Client and RSG agree as set out in this agreement.</p> <p>2.2. These Terms of Engagement constitute a contract for services between RSG and the Worker.</p> <p>2.3. Upon execution of these Terms of Engagement by the Worker, the terms will govern all Assignments undertaken by the Worker.</p> <p>2.4. No contract shall exist between RSG and the Worker between Assignments.</p> <p>2.5. Nothing in this Agreement is to be construed as establishing a relationship between the parties other than an independent contract relationship, with RSG as principal and the Worker as independent contractor.</p> <p>2.6. In particular, nothing in this Agreement is to be construed as establishing a relationship between the parties as one of:</p> <ol style="list-style-type: none"> (a) employer and employee; or (b) partners in partnership; or (c) joint venturers. <p>2.7. To remove any doubt, nothing in these Terms of Engagement shall be construed as, or constitute, a contract between RSG and any individual supplied by, or any representative of, the Worker. Any liabilities of an employer that may arise out of any Assignment shall be the liability, and responsibility, of the Worker.</p> <p>2.8. No variation or alteration to these Terms of Engagement shall be valid unless:</p> <ol style="list-style-type: none"> (a) The details of such variation are agreed between RSG and the Worker; and (b) Such agreed variations are set out in writing by a director of RSG; and (c) A copy of the varied Terms of Engagement is given to the Worker stating the date on, or after, which such varied Terms of Engagement shall apply. |
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3. **Assignments** within the relevant period then the employment business will be entitled to charge a fee to the Client.
- Duty to seek Assignments*
- 3.1. RSG will endeavour to obtain suitable Assignments for the Worker to work within the medical and healthcare professions in Australia, but is not bound to make any offer to engage the Worker.
- 3.2. The Worker shall not be obliged to accept an Assignment offered to the Worker by RSG.
- 3.3. Upon acceptance of an Assignment offered to the Worker by RSG:
- (a) the terms and conditions set out in this Agreements will govern the Assignment subject to the information provided to the Worker by RSG pursuant to clauses 3.6 and 3.7 below; and
 - (b) the Worker is engaged as an independent contractor and never as an employee, partnership partner, joint-venturer or otherwise; and
 - (c) the Worker undertakes to perform the project or the services required for the completion of the Assignment, as identified in the Conditions of Assignment; and
 - (d) the Worker undertakes to declare to the Client and RSG any conflict of interest, or potential conflict of interest, that the Worker has.
- 3.4. The Worker will not be entitled to receive, and neither RSG nor the Client will be obligated to provide to the Worker, any payment for salary, holiday pay, sickness pay, severance pay, long service leave entitlement or any other entitlement that an employee has in respect of their employer.
- Acknowledgment and Agreement by Worker*
- 3.5. The Worker:
- (a) Acknowledges that the nature of temporary work means that there may be period when no suitable work is available; and
 - (b) Agrees that:
 - (i) Suitability of the work to be offered shall be determined solely by RSG;
 - (ii) RSG shall incur no liability to the Worker should it fail to offer opportunities to work in the medical and healthcare professions or in any other category of profession; and
 - (iii) No contract shall exist between the Worker and RSG during periods when the Worker is not working on an Assignment.
- 3.6. In addition, the Worker acknowledges that:
- (a) If before the first Assignment, during the course of an Assignment or within the relevant period the Client wishes to employ the Worker either directly or through another employment business then RSG will be entitled either:
 - (i) To charge the Client a fee; or
 - (ii) To agree to an extension of the hiring period with the Client at the end of which the Worker may be engaged directly by the Client or through another employment business without further charge.
 - (b) If the Client introduces the Worker to a third party who subsequently engages the Worker
- Provision of information by RSG when offer made*
- 3.7. At the time an Assignment is offered by RSG to the Worker, RSG shall inform the Worker of the following ("Conditions of Assignment"):
- (a) The identity of the Client;
 - (b) The nature of the Client's business;
 - (c) The date the work is to commence and the duration or likely duration of the work;
 - (d) The type of work, location and hours during which the Worker will be required to work;
 - (e) The rate of remuneration that will be paid and any expenses payable by or to the Worker;
 - (f) Any risks to health and safety known to the Client and the steps the Client has taken to prevent or control such risks;
 - (g) What experience, training, qualifications and authorisations required by law or any professional body the Client considers necessary or which are required by law for the Worker to work on the Assignment.
- 3.8. The Conditions of Assignment must be supplied by the end of the third business day (excluding Saturday, Sunday and any public or bank holiday) following the date of the offer, except where:
- (a) The Worker is being offered an Assignment in the same position in respect of which the Worker had previously been supplied within the previous five business days;
 - (b) The Worker has already been given that information.
- 3.9. The Worker may perform work for any other person during the Period of Assignment on the strict condition that such work must not prejudice or affect the Worker's performance of the Assignment or the Worker's obligations during the Period of Assignment.
- 4. Fees and remunerations**
- 4.1. RSG will pay the Worker remuneration calculated at a minimum hourly rate which is in accordance with the national minimum wage for all hours worked. The national minimum wage is the minimum rate of remuneration that RSG reasonably expects to achieve.
- 4.2. The actual minimum hourly rate which will apply to each Assignment will be notified on a per-Assignment basis.
- 4.3. RSG will pay the Worker the remuneration referred to above:
- (a) For each hour worked during an Assignment (to the nearest quarter hour);
 - (b) Weekly in arrears;
 - (c) Subject to any deductions in respect of PAYE tax and any other deductions which are RSG may be required by law to make in respect of the Assignment.
- 4.4. Subject to any written Agreement by the parties to the contrary the Worker shall not be entitled to receive payment from either RSG or the Client for time not spent on Assignment whether in respect of holidays, illness or absence for any other reason.

- 4.5. RSG shall be entitled to set off against moneys to be paid to the Worker under this Agreement any amount owing to RSG or the Client by the Worker in relation to this Agreement.
5. **Timesheets**
- 5.1. The Worker shall deliver to RSG, RSG's timesheet:
- (a) Duly completed;
- (b) Indicating the number of hours worked by the Worker during the preceding week;
- (c) Signed by an authorised representative of the Client.
- 5.2. The Worker shall deliver RSG's timesheet referred to in 5.1 above at the end of each week of an Assignment (or at the end of the Assignment where an Assignment is for a period of less than one week or is completed before the end of the week).
- 5.3. Subject to this Agreement, RSG shall pay the Worker for all hours worked regardless of whether RSG has received payment from the Client for those hours.
- 5.4. Where the Worker fails to submit a timesheet in accordance with clause 5.2 above then RSG shall, in a timely fashion, conduct further investigations into the hours claimed by the Worker and the reasons (if any) that the Client has refused to sign a timesheet in respect of those hours. The Worker acknowledges that such investigation may delay any payment due to the Worker, and that such investigations may be necessary so as to ensure that RSG shall make no payment to the Worker for hours not worked.
6. **Worker's obligations**
- 6.1. Upon the Worker accepting an Assignment offered by RSG the Worker agrees as follows:
- (a) To cooperate with the Client's reasonable instructions and accept the direction, supervision and control of any responsible person in the Client's organisation;
- (b) To observe any relevant rules and regulations of the Client's establishment (including normal hours of work) to which attention has been drawn or which the Worker might reasonably be expected to ascertain;
- (c) To act in good faith and ensure that the services are performed with due care, skill and diligence according to the standards and ethics applying to the Worker's profession or trade and the industry in which the Worker performs the services;
- (d) To take all reasonable steps to safeguard his or her own health and safety and that of any other person who may be present or be affected by the Worker's actions on the Assignment and comply with the health and safety policies and procedures of the Client;
- (e) Not to engage in any conduct detrimental to the interests of RSG or the Client which includes any conduct tending to bring RSG or the Client into disrepute or which results in the loss of custom or business for either RSG or the Client;
- (f) Not to intentionally make any untrue statement in relation to RSG or the Client at any time, or make a wrongful representation about the Assignment, before or after the Assignment has been completed, or whilst the Assignment is being completed.
- (g) Not at any time to divulge to any person, nor use for the Worker's own or any other person's benefit, any Confidential Information relating to the employees, business affairs, transaction or finances of RSG or the Client;
- (h) To be present during the times or for the total number of hours during each day and/or week of the Assignment as may be agreed with RSG or the Client;
- (i) To comply with any rules or obligations in force at the premises where services are performed by the Worker during Assignments to the extent that they are reasonably applicable;
- (j) To furnish RSG with any progress reports as may be requested from time to time;
- (k) Not to subcontract to any third party any of the services which the Worker is required to perform under any Assignment;
- (l) If, either before or during the course of an Assignment, the Worker becomes aware of any reason why the Worker may not be suitable for an Assignment, the Worker shall notify RSG of that fact and reasons without delay;
- (m) If the Worker is unable for any reason to attend work during the course of an Assignment, to inform the Client and/or RSG within one hour of the commencement of the Assignment or shift as the case may be; and
- (n) to observe and comply with any time limits provided for in the Conditions of Assignment.
- 6.2. Further, the Worker:
- (a) acknowledges that the Worker will not, at any time whatsoever, make a contract or obtain credit on behalf of RSG or the Client; and
- (b) undertakes not to:
- (i) make, or attempt to make, a contract binding either RSG or the Client; or
- (ii) obtain, or attempt to obtain, credit on behalf of RSG or the Client; or
- (iii) otherwise represent him/her/itself, or otherwise hold him/her/itself (as the case may be) out, as agent for either RSG or the Client.
- 6.3. The Worker warrants that:
- (a) the Worker possesses all qualifications and skills appropriate for the provision of the project or services in order to perform the Assignment including, but not limited to, necessary qualifications or training or compliance with the requirements of any statute, Authority, and relevant professional or trade organisations; and
- (b) the Worker possesses all required licences and permission to use any intellectual property which is used in performing the services; and
- (c) in the event that either:
- (i) the Worker is no longer appropriately qualified and skilled as required by clause 6.3(a) above; or
- (ii) the Worker no longer possesses the required licences and permission referred to in clause 6.3(b) above; or
- (iii) any property, process, matter or thing which is the subject of any patent, copyright, right or interest of any third party is incorporated into any program, design or specification prepared in the performance of the services;
- then the Worker will immediately notify RSG of the same in writing.

- 7. Termination**
- 7.1. An Assignment may be terminated by RSG, the Client or the Worker by the terminating party giving a minimum of seven day's written notice to the other two parties.
- 7.2. If the Worker does not inform the Client or RSG in accordance with clause 6.1(m), in the event that the Worker is unable to attend work during the course of an Assignment, this will be treated as written notice given by the Worker in accordance with clause 7.1, unless the Worker can show that exceptional circumstances prevented him or her complying with clause 6.1(m).
- 7.3. Failure by the Worker to give notice of inability to attend work in accordance with clause 6.1(m) or of termination (in accordance with clause 7.1) as required, shall constitute a breach of contract and shall entitle RSG to claim damages from the Worker for any resulting loss suffered by RSG.
- 7.4. Notwithstanding anything provided for elsewhere in these Terms of Engagement, where required by the Client, RSG may without notice and without liability instruct the Worker to cease work on an Assignment at any time in the following circumstances:
- (a) The Worker has acted in breach of the rules and regulations applicable to the Client's own staff;
- (b) The Client reasonably believes that the Worker has not observed any condition of confidentiality applicable to the Worker from time to time; or
- (c) For any lawful reason the Worker proves unsatisfactory to the Client.
- 8. Computer equipment warranty**
- 8.1. The Worker shall ensure that any computer equipment and associated software that it provides for the purpose of providing these services to the Client contains anti-virus protection with the latest released upgrade from time to time.
- 9. Confidentiality**
- 9.1. The Worker:
- (a) recognises that both RSG and the Client have expended and will continue to expend time, money and effort in obtaining, retaining and developing their customer base(s) and have invested considerably in their methods, trade secrets and business; and
- (b) acknowledges that both RSG and the Client have an interest in maintaining and protecting the confidentiality of their information
- 9.2. In order to protect the Confidential Information and trade secrets of the Client and RSG, and without prejudice to every other duty that the Worker has to keep secret all information given to it or gained in confidence, the Worker agrees, acknowledges and undertakes relevantly as follows:
- (a) Not at any time, whether during or after an Assignment (unless expressly authorised in writing by the Client or RSG as a necessary part of the performance of the Worker's duties) to disclose to any person or to make use of any of the trade secrets or Confidential Information of the Client; and
- (b) At the end of each Assignment, or at any other time requested by RSG or the Client, to deliver up to the Client or RSG as directed all documents and other materials belonging to the Client (and all copies) which are in the possession of the Worker including documents and other materials created by the Worker during the course of the Assignment; and
- (c) Not at any time to make any copy, abstract, summary or précis of the whole of any part of any document or other material belonging to the Client except when required to do so in the course of its duties under an Assignment in which event any such items shall belong to the Client or RSG as appropriate; and
- (d) the Worker has no rights or interest in respect of the Confidential Information or trade secrets of RSG or the Client, and any Confidential Information or trade secrets is and will remain the sole and exclusive property of RSG or the Client (as the case may be).
- (e) all copyright, trademarks, patents and other intellectual property rights deriving from services carried out by the Worker for the Client during the Assignment shall belong to the Client.
- 9.3. The Worker covenants and undertakes:
- (a) to keep confidential all Confidential Information;
- (b) not to disclose any Confidential Information to any person, except:
- (i) as required by law;
- (ii) with the prior written consent of the Client; or
- (iii) to the Client's agents, employees or advisers in the proper performance of the Worker's responsibilities and duties to the Client whether under this Confidentiality Agreement or otherwise;
- (c) to use the Worker's best endeavours at all times to prevent the use or disclosure of any Confidential Information to or by third parties; and
- (d) to maintain proper and secure custody of all Confidential Information.
- 9.4. The Worker covenants not to use any Confidential Information other than in connection with the provision of services to the Client.
- 9.5. If the Confidential Information lawfully comes into the public domain then to the extent that the Confidential Information is public, and subject to the terms and conditions contained in this Confidentiality Agreement, the Worker's obligation to keep such information confidential ceases.
- 9.6. In the event of uncertainty as to whether:
- (a) any information is Confidential Information; or
- (b) any Confidential Information is lawfully within the public domain;
- then such information is deemed to be Confidential Information and such Confidential Information is deemed to be not within the public domain, unless the Worker is advised by the Client in writing to the contrary.
- 10. Notices**
- 10.1. All notices which are required to be given hereunder shall be in writing and shall be sent to the address of the Worker, RSG and Client, as the case may be, as set out in the schedule.
- 10.2. Any such notice may be delivered in the following manners and will be deemed to have been delivered and received at the respective relevant times set out below:
- (a) Personally; deemed to be delivered and received when delivered;
- (b) By pre-paid post: deemed to be delivered and received on the second business day following posting;
- (c) By facsimile transmission: deemed to be delivered and received when dispatched.
- 11. Taxes**

- 11.1. For the purposes of this clause, "Indemnified Taxes" means all withholding tax, superannuation charge amounts, fringe benefits tax, workers compensation insurance premiums and payroll tax imposed by any governmental authority arising out of or in relation to this Agreement, or any engagement arising under this Agreement but not including any tax on the profits of RSG (together with all costs associated with those taxes) ("Indemnified Taxes").
- 11.2. The Worker shall pay or cause to be paid when due and payable all of the Indemnified Taxes.
- 11.3. RSG shall not be liable to pay or reimburse the Worker in respect of the Indemnified Taxes and the Worker shall indemnify and keep indemnified RSG from and against liability for the Indemnified Taxes.
- 11.4. If RSG is, becomes or forms the view that it may be or become liable for the payment of any Indemnified Taxes, RSG may deduct the amount of its liability or prospective liability for the Indemnified Taxes from any amount due by RSG to the Worker whether under this Agreement or otherwise.
- 12. Goods and Services Tax**
- 12.1. In this Agreement, terms which are defined in the *A New Tax System (Goods and Services Tax) Act 1999* ("GST Act") have the same meaning as those terms have in that Act.
- 12.2. All prices or other sums payable or consideration to be provided under this Agreement are inclusive of GST. The recipient's obligation to pay the GST component of the consideration is subject to it receiving a valid tax invoice in respect of the supply at or before the time of payment.
- 13. Withholding Taxes**
- 13.1. RSG must withhold from any payment it is to make to the Worker such amount required by section 12-190 of Schedule 1 to the *Taxation Administration Act 1953* ("TAA") unless the Worker has, on or before the time payment is due, provided RSG with an invoice or other document quoting the Worker's correct ABN.
- 13.2. The Worker acknowledges that the current rate of withholding under section 12-190 of Schedule 1 to the TAA is 48.5%.
- 14. Reimbursable Expenses**
- 14.1. The Worker is responsible for and must pay all expenses incurred in providing the services.
- 14.2. RSG may pay, reimburse or contribute to a reimbursable expense properly incurred by or on behalf of the Worker.
- 14.3. A reimbursable expense is properly incurred by or on behalf of the Worker if -
- (a) the expenses are incurred at the request of the Client;
 - (b) the expenses are properly substantiated; and
 - (c) expenses exceeding \$100 are approved in writing by RSG before being incurred.
- 14.4. If RSG pays for, reimburses or contributes to a reimbursable expense, the amount required to be paid, reimbursed or contributed by RSG will be the sum of the amount of the reimbursable expense net of input tax credits (if any) to which the Worker is entitled in respect of the reimbursable expense and any GST payable by the Worker.
- 15. Insurance**
- 15.1. The Worker shall arrange and maintain the following kinds of insurance to the satisfaction of RSG:
- (a) appropriate public liability insurance;
 - (b) appropriate workers' compensation insurance; and
- (c) where required:
- (i) professional indemnity insurance; and
 - (ii) compulsory third party insurance; and
 - (iii) fully comprehensive motor vehicle insurance.
- 15.2. The Worker will provide to RSG at the commencement of each Assignment certificates or other such documentation as may be required by RSG as proof of the currency of those policies of insurance.
- 15.3. The Worker will immediately notify the Client and RSG of an event that is likely to give rise to a claim under a policy of the Worker.
- 16. Health and Safety**
- 16.1. Prior to the commencement of an Assignment, the Worker shall read and understand the Client's Occupational Health and Safety policy and procedures, and procedures relevant to the Assignment.
- 16.2. The Worker shall immediately notify and describe to the Client and RSG, either on the commencement of an Assignment or at any time during the Period of Assignment, if it appears that the working environment is or has become unsafe for any reason including, but not limited to, that the Client:
- (a) has not established safe work procedures; or
 - (b) is not complying with safety standards; or
 - (c) is not maintaining plant and equipment; or
 - (d) is not complying with any health or safety legislation or regulations;
- and, in these circumstances, the Worker is not permitted to commence or continue services.
- 16.3. The Worker must not engage in any work or use any equipment that the Worker:
- (a) is unfamiliar with; or
 - (b) is unqualified to use or perform; or
 - (c) has not received adequate training for.
- 16.4. The Worker must report all injuries to the Client and RSG immediately.
- 16.5. The Worker must not commence or continue the provision of services without appropriate clothing and footwear including any protective clothing and footwear required for work.
- 16.6. The Worker shall notify and describe to RSG any changes to duties or place of work occurring after the commencement of Assignment and during the Period of Assignment.
- 16.7. The Worker shall comply with RSG's Occupational Health and Safety Policies which are annexed as Schedule B. Nothing in this sub-clause shall impose or create any obligations on RSG.
- 17. Equal Opportunity**
- 17.1. The Worker shall prior to the commencement of an Assignment read and understand RSG's equal opportunity policy and procedures.

17.2. The Worker shall comply with RSG's equal opportunity policy and procedures. Nothing in this sub-clause shall create or impose any obligations on RSG.

17.3. The Worker must not engage in any sexual harassment, discrimination or victimisation prohibited under equal opportunity legislation.

17.4. The Worker must not request, instruct, induce, encourage, authorise or assist another person to discriminate against, sexually harass or victimise another person in a manner prohibited by equal opportunity legislation.

18. Other Policies

18.1. In addition to the obligations set out in this Agreement, the Worker shall comply with any other policies and procedures of RSG, which RSG may vary from time to time. Any such change or alteration to RSG's policies and procedures will be notified to the Worker. Nothing in this clause shall create or impose any obligations on RSG.

19. Indemnity

19.1. The Worker agrees to indemnify and keep RSG indemnified from and against all costs, claims, losses, damages, demands, liabilities, causes of action, proceedings, awards, or judgments suffered or incurred by or brought or made against RSG to the extent that they are caused or contributed to by:

- (a) the Worker's breach of any provision of this Agreement; or
- (b) the Worker's acts or omissions including without limitation any act or omission that may contravene the provisions of any legislation.

20. Acknowledgment

20.1. Each party acknowledges that:

- (a) the terms of this Agreement are fair and not harsh or unconscionable; and
- (b) they have voluntarily entered into this Agreement; and
- (c) RSG may negotiate the rate to be paid by the Client which includes a benefit to RSG.

21. Non-Solicitation

21.1. The Worker or its directors or employees shall not, for a period of 6 months after the Assignment has been completed, solicit or entice an engagement for services from the Client that are of the same or similar type to the services that were provided under the Assignment, either as an employee or as an independent contractor.

22. Miscellaneous

22.1. Failure by either party at any time to enforce any of the terms or provisions of the Agreement or to exercise any right shall not constitute a waiver of the same or effect that party's right to enforce the same thereafter.

22.2. If any provision of this Agreement is deemed to be unlawful or unenforceable, such provision shall be severed from this Agreement and all other provisions shall remain in force.

22.3. Time is of the essence of this Agreement. If the parties agree to vary a time requirement, the time requirement so varied is of the essence of this Agreement. An Agreement to vary a time requirement must be in writing.

22.4. This Agreement is the entire Agreement and understanding between the parties and everything connected with the subject matter of this Agreement.

22.5. This Agreement supersedes and substitutes any prior Agreement or understanding on anything connected with this subject matter.

22.6. Each party has entered into this Agreement without relying on any representation by any other party or any person purporting to represent that party.

22.7. This Agreement is personal and must not be assigned by either party without the consent of the other party.

23. Governing Law

23.1. The Terms of this Agreement are governed by the law of the State of Queensland, and any RSG and the Worker that any proceedings commenced by them against each other or the Client regarding this Agreement or any aspect of it whatsoever will be commenced in the appropriate Court in the State of Queensland.

24. EXECUTED as an Agreement.

EXECUTED by RSG by its duly appointed officer in the presence of:)
)
)

.....
Witness

.....
Name of Witness (print)

.....
Officer

.....
Name of Officer (print)

EXECUTED by the Worker by its duly appointed officer in the presence of:)
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Witness

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Name of Witness (print)

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Officer

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Name of Officer (print)

