



Australian Government
Department of Home Affairs

DEED OF AGREEMENT
BETWEEN
COMMONWEALTH OF AUSTRALIA
AND

[SAMPLE ONLY]

IN RELATION TO THE COMMUNITY SUPPORT PROGRAM

THIS DEED OF AGREEMENT is made on the.....day of

BETWEEN

COMMONWEALTH OF AUSTRALIA (Commonwealth), represented by the
DEPARTMENT OF HOME AFFAIRS (Department)
ABN 33 380 054 835 of 6 Chan Street, Belconnen ACT 2617

AND

(Approved Proposing Organisation)

RECITALS:

- A.** The Department has developed a Community Support Program that enables individuals, community groups, companies or other legal entities that the Department has approved, to propose Applicants for a Global Special Humanitarian (Subclass 202) Visa.
- B.** A person can only make a valid application under the Community Support Program if they have been proposed by an Approved Proposing Organisation. Approved Proposing Organisations are required to:
1. Screen and propose suitable humanitarian Applicants with employment prospects while giving priority to those settling in regional and rural Australia; and
 2. Liaise with reputable businesses and employers and/or community organisations to identify appropriate and suitable employment opportunities or employment pathways for prospective Applicants in order to achieve financial independence within the first 12 months following arrival; and
 3. Oversee delivery of settlement services to the Applicants they propose.
- C.** The Approved Proposing Organisation has fully informed itself on all aspects of its obligations as specified in this Deed.

THE PARTIES AGREE as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Deed, unless a contrary intention appears:

- 1.1.1 **Approved Proposing Organisation (APO)** means an organisation or individual that:
- (a) has been approved by the Department to be an “APO under the Community Support Program”; and
 - (b) enters into this Deed with the Department by executing the Deed and provided that this process is complied with and the approval has not been terminated, means the Party so described in this Deed;
- 1.1.2 **Applicant** means the person who has been proposed by the Approved Proposing Organisation using Form 1417 and depending upon the context in which it is used, “Applicant” may also include any dependant family members that are listed in the Form 1417. After arrival in Australia an ‘Applicant’ becomes an ‘Entrant’;
- 1.1.3 **Assurer** means the individual or organisation who meets the eligibility requirements set by the Department of Human Services to be an Assurer, and is willing and financially capable to provide an Assurance of Support for the applicant/s. Depending upon the context in which it is used, “Assurer” may also include an individual who is nominated as the Assurer in an Assurance of Support;

Released by Department of Home Affairs
under the Freedom of Information Act 1982

- 1.1.4 **Assurance of Support** means the legal agreement entered into between the Assurer and the Department of Human Services where the assurer is responsible to repay any recoverable social security payments made to the Applicant during the assurance period;
- 1.1.5 **Australian Supporters** means individuals and/or organisations in Australia who are providing financial and practical support for the Applicant/Entrant. This includes, but is not limited to, family, friends, community groups and employers;
- 1.1.6 **Commencement Date** means the date on which this Deed commences, being the date this Deed is signed by the Department;
- 1.1.7 **Confidential Information** in relation to a Party, means information that is by its nature confidential, and:
- (a) is designated by a Party as confidential; or
 - (b) the receiving Party knows or ought reasonably know the information to be confidential,
- but does not include information which is or becomes public knowledge other than by breach of this Deed or any other confidentiality obligations or is independently developed without reference to the other Party's Confidential Information;
- 1.1.8 **Deed** means this Deed of Agreement;
- 1.1.9 **Department** means the Department of Home Affairs
- 1.1.10 **Entrant** means an Applicant who has been granted a visa and arrived in Australia;
- 1.1.11 **Fair Work Act** means the *Fair Work Act 2009* (Cth) (as amended);
- 1.1.12 **Form 842** means the Department's Form 842 - "*Application for an Offshore Humanitarian visa*" which a person applying for a Refugee and Humanitarian Visa must complete and lodge with the Department in accordance with the Migration Regulations;
- 1.1.13 **Form 1417** means the Department's Form 1417 - "*Community Support Program Proposal by Approved Proposing Organisation*" which the APO must complete and lodge with the Department in accordance with the Migration Regulations;
- 1.1.14 **Global Special Humanitarian (Subclass 202) Visa** means a Global Special Humanitarian (Subclass 202) Visa as per Item 1402 of Schedule 1 to the *Migration Regulations, 1994* (Cth) (as amended);
- 1.1.15 **Humanitarian Settlement Program (HSP) service provider** means an individual or organisation contracted by the Department of Social Services to provide settlement support to humanitarian entrants. CSP clients are not eligible for HSP services unless purchased on a fee for service basis or assessed as eligible to receive Specialised and Intensive Services under the HSP, subject to the approval of the Department of Social Services.
- 1.1.16 **Incident** means any incident that:
- (a) significantly impacts the APO's ability to meet its obligations to an Applicant under this Deed, including a Notifiable Incident as this term is defined in section 35 of the *Work Health and Safety Act 2011* (Cth) (as amended); and
 - (b) adversely affects the Applicant, including any allegations of family violence, criminality, debt bondage or breaches of the National Employment Standards under the Fair Work Act or a breach of a State or Territory industrial law;
- 1.1.17 **Migration Act** means the *Migration Act 1958* (Cth) (as amended);
- 1.1.18 **Migration Agent** means a person that is registered as a migration agent with the Office of the Migration Agents Registration Authority, or its successor;
- 1.1.19 **Migration Regulations** means the *Migration Regulations 1994* (Cth) (as amended);

- 1.1.20 **Party** means a party to this Deed;
- 1.1.21 **Privacy Act** means the *Privacy Act 1988* (Cth) (as amended);
- 1.1.22 **Personnel** means a Party's officers, employees, agents, staff, contractors, professional advisers, volunteers, workers and any other human resources engaged in, or in relation to, the performance or management of this Deed by the Party and an APO's "Personnel" includes any appointed or engaged Supporting Community Organisation and its personnel;
- 1.1.23 **State or Territory industrial law** has the same meaning as in section 26 of the Fair Work Act;
- 1.1.24 **Supporting Community Organisation (SCO)** means an individual or organisation (including a subcontractor) appointed or engaged by the APO to perform part of the APO's obligations under this Deed in accordance with clause 4 of this Deed; and
- 1.1.25 **WHS Legislation** means the *Work Health and Safety Act 2011* (Cth) (as amended) and any 'corresponding WHS law' within the meaning of the *Work Health and Safety Act*.

1.2 Interpretation

In this Deed, unless the contrary intention appears:

- 1.2.1 words importing a gender include any other gender;
- 1.2.2 words in the singular number include the plural and words in the plural number include the singular;
- 1.2.3 clause headings in this Deed are for convenient reference only and have no effect in limiting or extending the language of the provisions to which they refer;
- 1.2.4 words importing persons include a partnership and a body whether corporate or otherwise;
- 1.2.5 all references to dollars are to Australian dollars;
- 1.2.6 reference to any statute or other legislation (whether primary or subordinate) is to a statute or other legislation of the Commonwealth as amended or replaced from time to time;
- 1.2.7 where any word or phrase is given a defined meaning, any other part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning;
- 1.2.8 reference to an Item is to an Item in the Schedules;
- 1.2.9 the Schedules and any attachments form part of this Deed;
- 1.2.10 where any conflict arises between the terms and conditions contained in the clauses of this Deed and any part of the Schedules (and attachments if any), the terms and conditions of this Deed prevail;
- 1.2.11 reference to the Schedules (or an attachment) is a reference to a Schedule (or an attachment) to this Deed, including as amended or replaced from time to time by agreement in writing between the Parties; and
- 1.2.12 unless otherwise specified, reference to days is to business days, being any day which is not Saturday, Sunday or a public holiday in Canberra.

This Deed records the entire agreement between the Parties in relation to its subject matter.

1.3 Guidance on Construction of the Deed

- 1.3.1 Any reading down or severance of a particular provision in this Deed does not affect the other provisions of this Deed.

- 1.3.2 If there is any inconsistency between the provisions of this Deed, a descending order of precedence will be given to:
- 1.3.2.1 the terms of this Deed;
 - 1.3.2.2 the Schedules; and
 - 1.3.2.3 the attachments,
- so that the provision in the higher ranked document will prevail, to the extent of the inconsistency.

2. TERM OF THE DEED

The Deed commences on the Commencement Date and continues until a Party terminates in accordance with clause 6.

3. ELIGIBILITY

3.1 The APO must:

- 3.1.1 agree that it has sufficient financial, other resources and expertise to perform its obligations in accordance with this Deed;
- 3.1.2 ensure that all relevant Personnel:
 - (a) are of good repute and character;
 - (b) have obtained all the relevant checks and/or clearances for working with children and vulnerable persons in compliance with the relevant State and Territory laws. The APO must meet the cost of such checks and/or clearances;
 - (c) are properly qualified for the tasks they are to perform; and
 - (d) act in all circumstances in a fit and proper manner; while they are carrying out any obligations under this Deed:
- 3.1.3 be of good character and reputation during the term of this Deed;
- 3.1.4 hold and maintain relevant insurance policies specified in clause 14.6 of this Deed; and
- 3.1.5 be financially viable, including no pending, bankruptcy, insolvency or deregistration notices.

3.2 The APO warrants that at the time of entering into this Deed:

- 3.2.1 it has no previous or pending complaints or charges made by the Department, the Australian Competition and Consumer Commission, the Fair Work Ombudsman, a regulator under WHS legislation, a regulator under a State or Territory industrial law, Australian Taxation Office, Australian Federal Police, State or Territory Police or other Government organisations in relation to its practices, dealings, operations, Personnel and workplace conditions; and
- 3.2.2 it has not been subject to an unfavourable judicial or tribunal decision (not including decisions under appeal) relating to employee entitlements in respect of which it has not paid a judgment amount or complied with other orders made against it in the decision; and
- 3.2.3 agrees that if during the term of this Deed, any of the above matters arises, it will bring this to the attention of the Department immediately.

3.3 The APO will perform and continue to perform its obligations in accordance with, and will ensure that it complies with the requirements of this Deed. The APO will not be relieved of these responsibilities because of any:

- 3.3.1 involvement by the Commonwealth or any party contracted to act on behalf of the Commonwealth in the performance of this Deed;
- 3.3.2 appointment or engagement by the APO of any SCO under clause 4.1; or

- 3.3.3 performance or non-performance by an SCO of any or all of the APO's obligations under this Deed.
- 3.4 Upon appointing or engaging any SCO, the APO gives the same warranties to the Department as set out in clauses 3.1.2, 3.2.1 and 3.2.2, in relation to the relevant SCO, and agrees that if during the term of this Deed, any of the matters set out in clauses 3.1.2, 3.2.1 or 3.2.2 arises in relation to an SCO, it will bring this to the attention of the Department immediately.

4 SUPPORTING COMMUNITY ORGANISATIONS

- 4.1 The APO may appoint or engage SCOs to undertake on behalf of the APO any of the obligations of the APO under this Deed. Notwithstanding any arrangement with an SCO, the APO remains responsible for the performance of all the APO's obligations under this Deed.
- 4.2 The APO may only subcontract part, and not all, of its obligations to an SCO. Other than to an SCO in accordance with this provision, the APO must not subcontract any of its obligations under this Deed.
- 4.3 The APO must notify the Department in writing of the details of any SCO which it has appointed or engaged under clause 4.1, within seven (7) days of appointing or engaging this SCO.
- 4.4 If the APO terminates its relationship with any SCO, it must notify the Department in writing in accordance with clause 24 within seven (7) days of the termination.
- 4.5 The APO will ensure that:
- 4.5.1 any appointed or engaged SCO has sufficient financial and other resources and expertise to perform the obligations of the APO in accordance with this Deed; and
- 4.5.2 any arrangement with an SCO contains provisions equivalent to all obligations imposed on the APO under this Deed, and all rights of the Department under this Deed, including but not limited to privacy, confidentiality, monitoring, reporting and audit requirements imposed on the APO under this Deed.

5 APPROVED PROPOSING ORGANISATION'S OBLIGATIONS

- 5.1 The APO may propose Applicants for entry into Australia in accordance with the Migration Regulations, while giving priority to those settling in regional and rural Australia, but must not propose:
- 5.1.1 a visa Applicant on behalf of another person who is mentioned in sub-regulation 2.07AM(5) of the Regulations;
- 5.1.2 a visa Applicant on behalf of a temporary visa holder; or
- 5.1.3 visa applications which are inconsistent with the global, regional and settlement priorities of the Government, as advised by the Department; or
- 5.1.4 a visa Applicant from specific cohorts, locations or profiles as notified to the APO by the Department in writing.
- 5.2 The APO must lodge applications where the Applicant seeking to meet the primary criteria for the grant of the Global Special Humanitarian visa (subclass 202) is aged between 18 and 50 years old and has an offer of employment (or a pathway that leads to employment) and/or personal attributes (as specified by the Department) that would enable them to become financially self-sufficient within 12 months of arrival in Australia.
- 5.3 The APO must ensure that expectations relating to financial costs, supporting roles and visa processing timeframes are clearly articulated and understood by all parties involved in the proposal, including the proposed Applicant.

- 5.4 Within ten (10) business days from the Commencement Date, the APO must provide details to the Department of its pricing structure and types of services offered to prospective employers and Applicants. The APO acknowledges that the maximum fee and types of services offered by the APO to prospective employers and Applicants will be published on the Department's website. The APO must:
- 5.4.1 ensure that the pricing offered to prospective Applicants and employers is fair and reasonable, and is consistent with the intentions of Australia's humanitarian program;
 - 5.4.2 provide a web link which the Department can publish on its website to the APO's pricing structures and proposed services for prospective employers and Applicants; and
 - 5.4.3 notify the Department of any proposed changes to its pricing structure or types of services offered prior to these changes taking effect.
- 5.5 Prior to lodging a visa application, the APO must:
- 5.5.1 ensure that the Applicant has an Assurer in Australia that is willing and financially capable to assure them under the Assurance of Support provisions published by the Department of Human Services;
 - 5.5.2 ensure that all required settlement support services can be delivered to the Entrant in their settlement location;
 - 5.5.3 engage a HSP provider on a fee for service basis to complete a comprehensive client-focused settlement case management plan for each Entrant on arrival in Australia to ensure that the Entrant achieves the foundation outcomes set by the HSP;
 - 5.5.4 engage a HSP provider on a fee for service basis to provide orientation services for the Entrant after arrival in Australia; and
 - 5.5.5 engage a HSP provider on a fee for service basis to complete a final interview for each Entrant once the Entrant has achieved the settlement outcomes as set out in their case management plan at 5.5.3 or at 12 months, whichever is sooner.
- 5.6 When lodging a visa application for the Applicant, the APO must:
- 5.6.1 lodge Forms 842 and 1417 along with all supporting documentation with the Department including:
 - (a) an integration plan which demonstrates the Applicant meets the requirements under clause 5.5 (above); and
 - (b) a letter from a HSP provider contracted to Department of Social Services confirming that their services will be provided as required at 5.5.3, 5.5.4 and 5.5.5 (above), including identifying the costs of said services; and
 - (c) any other supporting information notified by the Department;
 - 5.6.2 ensure the first instalment of the visa application charge for the Global Special Humanitarian visa (subclass 202) is paid at the time the application is made and the second instalment of the visa application charge (which is payable before the grant of the visa) is paid in a timely manner. Any other costs associated with the visa process are paid in a timely manner;
 - 5.6.3 source relevant migration advice, assistance and services from a registered Migration Agent as required during visa application processing;
 - 5.6.4 arrange and fund medical assessments or any other requirements needed for the visa application process;
 - 5.6.5 arrange and fund airfares to Australia, including the management and coordination of any exit permits or payments as required; and
 - 5.6.6 demonstrate capacity to provide for and manage the support needs of Applicant once the Applicant arrives in Australia.

- 5.7 The APO will be responsible for ensuring that the required documentation for the Assurance of Support is lodged with the Department of Human Services once requested by the Department, and ensure that the Assurer and Applicant are fully aware of their responsibilities and obligations under the Assurance of Support scheme, including any liabilities that may be incurred.
- 5.8 The APO will be responsible for managing and coordinating the relationship between parties, including ensuring that obligations, roles and expectations are understood by everyone. The parties may include, as relevant:
- 5.8.1 the Applicant;
 - 5.8.2 any family of the Applicant in Australia;
 - 5.8.3 the employer of the Applicant;
 - 5.8.4 the Assurer; and
 - 5.8.5 the SCOs.
- 5.9 In relation to employment for the Applicant, the APO must:
- 5.9.1 work with reputable employers and/or community organisations to source suitable and appropriate employment opportunities relevant to an Applicant's particular skills, experience and English proficiency;
 - 5.9.2 not source employment opportunities from non-reputable organisations or labour hire firms;
 - 5.9.3 ensure that employers provide any Entrant who is a new employee with a Fair Work Information Statement within the meaning of section 124 of the Fair Work Act in a form comprehensible by the Entrant, either before commencement of the employment, or as soon as possible after commencement; and
 - 5.9.4 ensure that employers provide any Entrant who is an employee under a State or Territory industrial law with any information or material the employer is required to provide to the employee under that law in the manner required by that law and in a form comprehensible by the Entrant.
- 5.10 Upon the Entrant arriving in Australia, the APO will be responsible for:
- 5.10.1 arranging for settlement services to be purchased and provided to each Entrant for up to 12 months as identified by the settlement case management plan as described at 5.5.3 (above). Any settlement services not provided by a HSP provider on a fee for service basis must be provided or organised by the APO.
 - 5.10.2 arranging a HSP provider to provide orientation services on a fee for service basis to each Entrant after arrival in Australia (refer also 5.5.4 above); and
 - 5.10.3 arranging the HSP provider to complete a final interview for each Entrant on a fee for service basis, once the Entrant has achieved the settlement outcomes as set out in their case management plan at 5.5.3 and 5.10.1 (above) or at 12 months, whichever is sooner.
 - 5.10.4 overseeing the Assurance of Support arrangement between the Assurer and the Entrant;
 - 5.10.5 sourcing accommodation for the Entrant on arrival in Australia;
 - 5.10.6 providing case management services to the Entrant for the first 12 months the Entrant is in Australia;
 - 5.10.7 take all reasonable steps to ensure the Entrant engages productively in the Australian community;
 - 5.10.8 meeting the reporting requirements specified in clause 9 of this Deed;

- 5.10.9 providing support and information to the Entrant to assist them to understand their rights and responsibilities as permanent residents to live and work in the Australian community;
- 5.10.10 organising and ensuring payment for and attendance at orientation sessions delivered by a HSP provider, which covers:
- (a) workplace obligations, entitlements and conditions;
 - (b) workplace rights and safety;
 - (c) worker protection measures including payment or receipt of a benefit for a visa;
 - (d) any residential and tenancy rights and responsibilities under the relevant legislation; and
 - (e) familiarising the Entrant with services and service providers including but not limited to:
 - i. Health care;
 - ii. Banks;
 - iii. Public transport;
 - iv. Translating and interpreting services;
 - v. Education including English language training if necessary;
 - vi. Childcare; and
 - vii. Department of Human Services (for the purposes of activating the Assurance of Support, and applying for appropriate services, where eligible).
- 5.10.11 Ensuring that, where an HSP provider has determined in the final interview that the Entrant requires further settlement services after 12 months from arrival in Australia to reach the settlement outcomes in their case management plan (as per 5.10.1 above), necessary referrals are made and services purchased from appropriate providers.
- 5.11 If there is a breakdown in the relationship between an Entrant and the APO, the APO must take all reasonable steps to continue delivering the support and assistance to the Entrant required under this clause 5. In the event that the APO cannot continue delivering the support and assistance under this clause, despite taking all reasonable steps, the APO will use its best endeavour to arrange for another APO to continue delivering the support and assistance for the affected Entrant at no additional cost to the Entrant or their Australian Supporters.
- 5.11A If the Entrant does not commence their intended employment or their employment terminates during the first 12 months from the Entrant arriving in Australia, the APO must take all reasonable steps to source other suitable employment for the Entrant. If the APO cannot source suitable employment for the Entrant, despite taking all reasonable steps to do so, the APO must notify the Department within seven (7) business days after the APO considers that it has taken all reasonable steps to source suitable alternate employment. Upon receiving this notice, the Department may require the APO to propose and comply with a remediation plan or to implement other measures to source employment for the Entrant which are acceptable to the Department.
- 5.11B If the APO sources other suitable employment for the Entrant under clause 5.11A above, and this employment terminates (**Subsequent Employment**) during the first 12 months from the Entrant arriving in Australia, the APO must notify the Department within seven (7) business days that the Entrant's Subsequent Employment has been terminated.
- 5.12 It is also the APO's responsibility to:
- 5.12.1 Notify the Department if it becomes bankrupt, or goes into liquidation or insolvency;

- 5.12.2 Notify the Department of any complaint or charge made by the Australian Competition and Consumer Commission, the Fair work Ombudsman or relevant State body, Australian Taxation Office, Australian Federal Police, State or Territory Police or other Government agencies in relation to its practices, dealings, operations, Personnel or workplace conditions;
- 5.12.3 Notify the Department of any changes to its fees and charges as per clause 5.4 (above); and
- 5.12.4 Notify the Department of any changes to its eligibility as per clause 3.

6 TERMINATION AND SUSPENSION

6.1 Termination by the Department

- 6.1.1 The Department may terminate or suspend this Deed in whole or part effective immediately by giving notice to the APO if:
- (a) An Entrant makes a serious allegation regarding the APO's conduct or performance which is proven or substantiated;
 - (b) the APO repeatedly lodges visa applications that do not comply with the requirements specified in clause 5.1 and 5.2. 'Repeatedly' in this clause means three or more visa applications;
 - (c) the APO or any SCO or employers are found to be in breach of the Fair Work Act, a State or Territory industrial law, WHS Legislation or relevant Commonwealth, State or Territory Anti-Discrimination legislation;
 - (d) a complaint and/or sanction is applied relating to any migration activities, including the failure to comply with clause 19;
 - (e) the APO disposes of the whole or any part of its assets, operations or business other than in the ordinary course of business;
 - (f) the APO ceases to carry on business;
 - (g) the APO ceases to be able to pay its debts as they become due;
 - (h) if the APO is an individual and becomes bankrupt or enters into an arrangement under Part IX or Part X of the *Bankruptcy Act 1966* (Cth) (as amended);
 - (i) if the APO is a company and it enters into liquidation or has a controller, managing controller, liquidator or administrator appointed;
 - (j) if the APO is a partnership and any step is taken to dissolve that partnership;
 - (k) the APO or any of its Personnel have committed an offence under the *Crimes Act 1914* (Cth) (as amended) and *Criminal Code Act 1995* (Cth) (as amended) in the course of performing the obligations under this Deed;
 - (l) the APO or any SCO is listed under section 15 of the *Charter of the United Nations Act 1945* (Cth) (as amended);
 - (m) the APO increases its pricing structure without notifying the Department in accordance with clause 5.4;
 - (n) the APO does not take all reasonable steps under clause 5.11A to source other suitable employment for the relevant Entrant;
 - (o) the APO becomes aware that an Entrant's Subsequent Employment has been terminated but fails to notify the Department in accordance with clause 5.11B;
 - (p) the APO breaches clause 15.3 of this Deed;
 - (q) the APO breaches a provision of this Deed and fails to remedy the breach within thirty (30) calendar days after receiving the notice from the Department requiring it to do so;
 - (r) in any other circumstance the Department determines the APO agreement should be terminated.

6.2 Termination for convenience

Each Party may terminate this Deed at any time by giving the other Party thirty (30) calendar days' notice in writing. The date of termination of this Deed will be the date specified in the notice.

6.3 Effect of termination

If this Deed has been terminated:

- 6.3.1 the APO will take all reasonable steps to mitigate any impact upon Applicants and Entrants including:
 - (a) where practicable, continue to provide the assistance and support to those Entrants for the entire 12 month period from the date when the Entrant arrives in Australia; or
 - (b) where it is not practicable for the APO to continue to provide assistance and support of those Entrants who have arrived in Australia, the APO will take all practicable steps to engage another APO to continue providing the assistance and support services to the Entrant at no additional cost to the affected Entrant or their Australian Supporters; and
- 6.3.2 the APO must contact the Department to ascertain the status of any visa Applicants proposed by the APO as at the date of the termination or suspension.
- 6.3.3 This clause will survive 18 months from the termination of this Deed.

7 AMENDMENT

The terms of this Deed can only be amended by a written deed of variation that is agreed and signed by all Parties. For the sake of clarity, a deed of variation will not be required if the Department amends the template form contained in Schedule 1 of this Deed. Any amendment of the template form by the Department will be advised to the APO by notice in writing in accordance with clause 24.

8 MONITORING

Monitoring – general

- 8.1 The Department will monitor the APO's performance of its obligations:
 - 8.1.1 under this Deed; and
 - 8.1.2 under any plans for settlement that the APO has for its Applicants or Entrants, by:
 - (a) reviewing the reports provided to the Department by the APO under clause 9;
 - (b) communicating with the Applicant/Entrant, either in person or by telephone;
 - (c) requesting the APO to provide any information the Department may reasonably require in connection with the Deed; or
 - (d) conducting a file audit of relevant files held by the APO, upon giving five (5) business days prior notice in writing or on an as needs basis where the Department is aware of a potential problem with an Applicant/Entrant.
- 8.2 If the Department determines, as a result of its monitoring under clause 8.1, that the APO's performance of its obligations does not comply with this Deed, the Department will notify the APO of the non-compliance and specify a time period within which the APO must remedy the non-compliance. The APO must respond to this notice, in writing, providing information on the reason for the non-compliance and the strategy it will adopt to remedy the non-compliance and to prevent further non-compliance.
- 8.3 Without limiting the Department's rights, if following a notice given under clause 8.2, the Department determines that the APO's performance has not complied with this Deed to the Department's satisfaction within the time period specified in the notice, the Department may require the APO to propose and comply with a remediation plan to remedy the non-compliance.

9 REPORTS

Reporting – reporting on Entrant settlement outcomes

- 9.1 Using the template in Schedule 1, the APO must provide reports to the Department that provide details of the settlement support obligations provided to each Entrant together with any other information that may be required.
- 9.2 The first report is to cover the three month period that commences on the date the Entrant arrives in Australia and is to be provided to the Department within thirty (30) calendar days after the first three month period ends.
- 9.3 Each subsequent report is to be provided to the Department within thirty (30) calendar days after the end of the preceding three (3) month period up to a maximum of 12 months.

Reporting - Incidents

- 9.4 If an Incident occurs, the APO must notify the Department within two (2) working days in writing the details of the Incident, including any steps the APO has taken to mitigate or resolve the Incident.
- 9.5 The APO will provide any further and/or additional information relating to the notified Incident that is reasonably requested by Department.

10 WORK HEALTH AND SAFETY

The APO must ensure that in providing services and assistance under this Deed to Entrants, it complies with its duties, and ensures that SCOs comply with their duties, under WHS Legislation.

11 CONFLICT OF INTEREST

- 11.1 In this clause 11:
Conflict means any matter, circumstance, interest, or activity affecting the APO (including its Personnel) which may or appear to impair the ability of the APO to carry out its obligations under this Deed lawfully, diligently and independently.
- 11.2 The APO warrants that, to the best of its knowledge, after making diligent inquiry, at the Commencement Date no Conflict that has not been disclosed to the Department exists or is likely to arise in the performance of its obligations under this Deed by itself, or its Personnel.
- 11.3 The APO must not, and must ensure that its Personnel do not, engage in any activity that is likely to give rise to a Conflict.
- 11.4 If a Conflict arises, or appears likely to arise, during the term of this Deed, the APO must:
 - 11.4.1 notify the Department immediately;
 - 11.4.2 make full disclosure to the Department of all relevant information relating to the Conflict; and
 - 11.4.3 take such steps as the Department may reasonably require to resolve or otherwise deal with the Conflict.
- 11.5 The APO agrees to ensure that if it appoints or engages SCOs for the purpose of performing the APO's obligations under this Deed, it will impose on any SCOs the same obligations that the APO has under this clause 11.

12 CONFIDENTIAL INFORMATION

- 12.1 The Parties agree not to disclose, without prior written consent, any Confidential Information of the other Party. The obligations of the Parties under this clause will not be taken to have been breached to the extent that the Confidential Information:
- 12.1.1 is disclosed by a Party in order to comply with obligations under this Deed;
 - 12.1.2 is disclosed to any minister of the Commonwealth or his/her advisers;
 - 12.1.3 is disclosed in response to a request of a House or a Committee of the Parliament of the Commonwealth of Australia;
 - 12.1.4 is disclosed in order to respond to a request that is made by a Royal Commission, a body undertaking an administrative or statutory review, or an audit or inquiry (whether within or external to the Commonwealth), including a review, audit or inquiry that is conducted by the Department, or its nominee or representative under clause 22; or
 - 12.1.5 is authorised or required by law to be disclosed.
- 12.2 The Parties agree that the terms of this Deed itself are not confidential.
- 12.3 The Department may at any time require the APO to arrange for its Personnel, including an SCO, to give a written undertaking relating to nondisclosure of the Department's Confidential Information in a form acceptable to the Department.

13 PERSONNEL

- 13.1 At the Department's request, the APO, at its own cost, must as soon as reasonably practicable replace any Personnel that the Department reasonably considers:
- 13.1.1 is not of good repute and character;
 - 13.1.2 does not have all of the relevant checks and/or clearances for working with children and vulnerable persons in compliance with the relevant State and Territory laws;
 - 13.1.3 is not properly qualified for the tasks they are performing; or
 - 13.1.4 has not or is not, in all the circumstances, acting in a fit and proper manner.
- 13.2 Any Personnel who is replaced under clause 13.1 must be replaced with personnel that is acceptable to the Department.

14 INDEMNITY AND INSURANCE

Indemnity

- 14.1 The APO agrees to indemnify the Department from and against any:
- 14.1.1 cost or liability incurred by the Department;
 - 14.1.2 loss of or damage to property of the Department; or
 - 14.1.3 loss or expense incurred by the Department in dealing with any claim against it including legal costs and expenses on a solicitor/own client basis and the cost of time spent, resources used or disbursements paid by the Department, arising from:
 - (a) any act or omission involving fault on the part of the APO and/or any SCO in connection with this Deed;
 - (b) any breach by the APO of its obligations under this Deed;
 - (c) any unauthorised use or disclosure by the APO, its Personnel and/or any SCO of Personal Information held or controlled in connection with this Deed.

- 14.2 The APO's liability to indemnify the Department under clause 14.1 will be reduced proportionately to the extent that any breach of this Deed by the Department or any act or omission involving fault on the part of the Department contributed to the relevant cost, liability, loss, damage, or expense.
- 14.3 The right of the Department to be indemnified under clause 14.1 is in addition to, and not exclusive of, any other right, power or remedy provided by law, but the Department is not entitled to be compensated in excess of the amount of the relevant cost, liability, loss, damage, or expense.
- 14.4 The Parties acknowledge and agree that this clause 14 will be subject to review where this Deed is varied.
- 14.5 This clause 14 will survive seven (7) years from the expiration or termination of this Deed.

Insurance

- 14.6 The Approved Proposing Organisation will, for so long as any obligation remains in connection with this Deed, effect and maintain the following insurance for all the APO's obligations under this Deed including those which survive the expiration or termination of this Deed:
- 14.6.1 Public Liability insurance to the value of no less than \$20 million per occurrence;
- 14.6.2 Products Liability insurance to the value of no less than \$20 million in the aggregate;
- 14.6.3 Workers Compensation insurance in accordance with the relevant State and Territory laws;
- 14.6.4 Professional Indemnity insurance to the value of no less than \$5 million per occurrence and in the aggregate; and
- 14.6.5 Comprehensive Motor Vehicle insurance, including Third Party Property Damage to the value of no less than \$20 million.
- 14.7 The APO must ensure that its SCOs (if any) are insured as is appropriate (including with respect to the amount of insurance, types of insurance and period of insurance) given the nature of services or work to be performed by them, in a manner consistent with the requirements of this clause 14 as if they were the APO.
- 14.8 The APO will provide proof of insurance acceptable to the Department when the Department requests it to do so.

15 PROTECTION OF PERSONAL INFORMATION

- 15.1 This clause 15 applies only to the extent that the APO deals with Personal Information and Sensitive Information in performing its obligations in accordance with this Deed.
- 15.2 In this clause 15, the following terms have the same meaning as they have in the Privacy Act:
- Personal Information;
 - Sensitive Information;
 - an agency; and
 - APPs (Australian Privacy Principles).
- 15.3 The APO agrees that in performing its obligations in accordance with this Deed, it will:
- 15.3.1 use or disclose Personal Information and Sensitive Information obtained in the course of performing its obligations in accordance with this Deed only for the purposes of this Deed;
- 15.3.2 carry out and discharge the obligations contained in the APPs as if it were an agency;

- 15.3.3 not do any act or engage in any practice which, if done or engaged in by an agency, would be a breach of an APP;
 - 15.3.4 not use or disclose Personal or Sensitive Information which would breach the Privacy Act (where applied) , unless that act or practice is explicitly required under this Deed;
 - 15.3.5 comply with any request under section 95C of the Privacy Act;
 - 15.3.6 notify the Department immediately if the APO becomes aware of a breach or possible breach of any of the obligations contained in, or referred to in, this clause 15, whether by the APO, its Personnel and/or an SCO; and
 - 15.3.7 ensure that all Personnel required to deal with Personal Information and Sensitive Information for the purposes of this Deed are made aware of the obligations of the APO set out in this clause 15.
- 15.4 The APO agrees to ensure that if it appoints or engages SCOs for the purpose of performing the APO's obligations under this Deed, it will impose on any SCOs the same obligations that the APO has under this clause 15.

16 DISCLOSURE

- 16.1 The APO acknowledges and agrees that the Department will identify the APO including any appointed or engaged SCO on the Department's website as being involved in the Community Support Program.
- 16.2 The APO also acknowledges and agrees that the Department will also publish the APO's web link provided in accordance with clause 5.4.2 on the Department's website.
- 16.3 The APO will notify the Department as soon as reasonably practicable of any changes to the information published on the Department's website. Upon receiving details of changes to the information, the Department will update the APO's information on the Department's website as soon as reasonably practicable.
- 16.4 The APO will be responsible for ensuring that any appointed or engaged SCOs are made aware of the terms of this clause.

17 DISPUTE RESOLUTION

- 17.1 The Parties agree that any dispute arising during the course of this Deed will be dealt with as follows:
 - 17.1.1 the Party claiming that there is a dispute will send to the other a notice setting out the nature of the dispute (**Notice**);
 - 17.1.2 the Parties will try to resolve the dispute by direct negotiation, including by referring the matter to persons who may have authority to intervene and direct a resolution of the dispute; and
 - 17.1.3 the Parties have ten (10) days from the sending of the Notice to reach a resolution or to agree that the dispute will be submitted to mediation or some other form of alternative dispute resolution.
- 17.2 Despite the existence of a dispute, the APO will (unless requested by the Department in writing not to do so) continue to perform its obligations in accordance with this Deed.
- 17.3 This clause 17 does not apply to a default by the APO that will result in the termination of this Deed pursuant to clause 6.1 or clause 6.2.

18 RELATIONSHIP OF THE PARTIES

- 18.1 The APO will not represent itself, and will ensure that its Personnel and any SCOs do not represent themselves, as being Personnel of the Department or as otherwise able to bind or represent the Department.

- 18.2 The APO will not by virtue of this Deed be or for any purpose be deemed to be Personnel of the Department or as having any power or authority to bind or represent the Department.
- 18.3 This Deed does not create a relationship of employment, agency or partnership between the Parties.

19 ENGAGEMENT OF ILLEGAL WORKERS PROHIBITED

- 19.1 For the purposes of this clause an Illegal Worker means a non-citizen who:
- 19.1.1 does not hold a valid visa and who performs Work in Australia; or
- 19.1.2 holds a valid visa and who performs Work in Australia in breach of a visa condition that:
- (a) prohibit them from working in Australia; or
- (b) restricts the Work that they may perform in Australia.
- Work** means any work, whether for reward or otherwise,
- 19.2 The APO must ensure that no Personnel engaged in any capacity for their organisation or entity, including those engaged by any SCOs, are Illegal Workers. The APO must notify the Department immediately if it becomes aware of the involvement of an Illegal Worker in such Work.
- 19.3 The APO must remove or cause to be removed any Illegal Worker from any involvement in their organisation or entity and arrange for their replacement at no cost to the Department and immediately upon becoming aware of the involvement of the Illegal Worker.
- 19.4 If requested in writing by the Department, the APO must provide evidence within fourteen (14) days that it has taken all reasonable steps to ensure that it has complied and is complying with its obligations under this clause, including in relation to the SCOs.

20 COMPLIANCE WITH THE LAW

The APO in carrying out its obligations under this Deed must comply with, and ensure that its Personnel comply with all relevant legislation of the Commonwealth, State, Territory or a local authority in force from time to time.

21 BOOKS AND RECORDS

- 21.1 The APO must at all times maintain full, true, accurate and up-to-date proper business and accounting records relating to this Deed and any obligations performed under this Deed.
- 21.2 Such accounts and records must be made available to the Department as required for monitoring and reviewing the performance of the APO's obligations under this Deed, including being available for audit and access in accordance with clause 22.
- 21.3 The APO must securely retain, and require all SCOs to securely retain, for a period of seven (7) years after termination or expiration of this Deed, all accounts and records referred to in this clause 21.
- 21.4 The APO agrees to comply with any reasonable directions from the Department with respect to any applicable Commonwealth, State or Territory Laws relating to archival requirements.
- 21.5 The APO must bear its own costs of complying with this clause.
- 21.6 This clause applies for the term of this Deed and for a period of seven (7) years from the termination or expiry of this Deed.
- 21.7 The APO agrees to ensure that if it appoints or engages SCOs for the purpose of performing the APO's obligations under this Deed, it will impose on the SCOs the same obligations that the APO has under this clause 21.

22 ACCESS TO PREMISES

- 22.1 The APO must allow the Department, or its nominee or representative, access to the APO's premises at all reasonable times to inspect and copy all relevant documentation and records, however stored, in the APO's possession or control, for purposes associated with this Deed or any review of performance under this Deed.
- 22.2 The rights referred to in this clause 22 are subject to:
- 22.2.1 the provision of reasonable prior notice to the APO;
 - 22.2.2 compliance with the APO's reasonable security procedures;
 - 22.2.3 each Party bearing its own cost arising out of or in connection with any access or inspection; and
 - 22.2.4 if appropriate, execution of a deed of confidentiality relating to non-disclosure of the APO's Confidential Information.
- 22.3 The APO must ensure that the subcontract arrangement with an SCO contains an equivalent clause granting the rights specified in this clause.
- 22.4 This clause applies for the term of this Deed and for a period of seven (7) years from the date of expiration or termination of this Deed.

23 APPLICABLE LAW

The laws in the Australian Capital Territory apply to this Deed.

24 NOTICES

- 24.1 A notice, request or other communication given to or required from a Party under this Deed must be in writing in the English language and must be delivered by hand or sent either by prepaid post or email to that Party at its address set out below or such other address as the Party may have notified in writing to the other Party:
- 24.1.1 Department of Home Affairs
6 Chan Street, BELCONNEN ACT 2617.
PO Box 25, BELCONNEN ACT 2616;
Email [s. 47E\(d\)](#)
 - 24.1.2 The APO:
- 24.2 Any notice, request or other communication will be deemed to be received:
- 24.2.1 if delivered by hand – upon delivery to the relevant address;
 - 24.2.2 if sent by registered post - upon delivery to the relevant address; and
 - 24.2.3 if transmitted electronically - on the day of dispatch providing the sender does not receive an email delivery failure notification in respect of the email.

25 SURVIVORSHIP

Any provision of this Deed which expressly or by implication from its nature is intended to survive the termination or expiration of this Deed and any rights arising from the termination or expiration shall survive, including the clauses relating to the APO's obligations, clause 9 (**Reports**), 14 (**Indemnity and Insurance**), clause 21 (**Books and Records**) and clause 22 (**Access to Premises**).

EXECUTED AS A DEED OF AGREEMENT

Executed as a **DEED OF AGREEMENT** by
the COMMONWEALTH OF AUSTRALIA as
represented by the **DEPARTMENT**
OF HOME AFFAIRS

Date:

In the presence of:

Name:

Date:

Executed as a **DEED OF AGREEMENT** for and on behalf of
the Approved Proposing Organisation

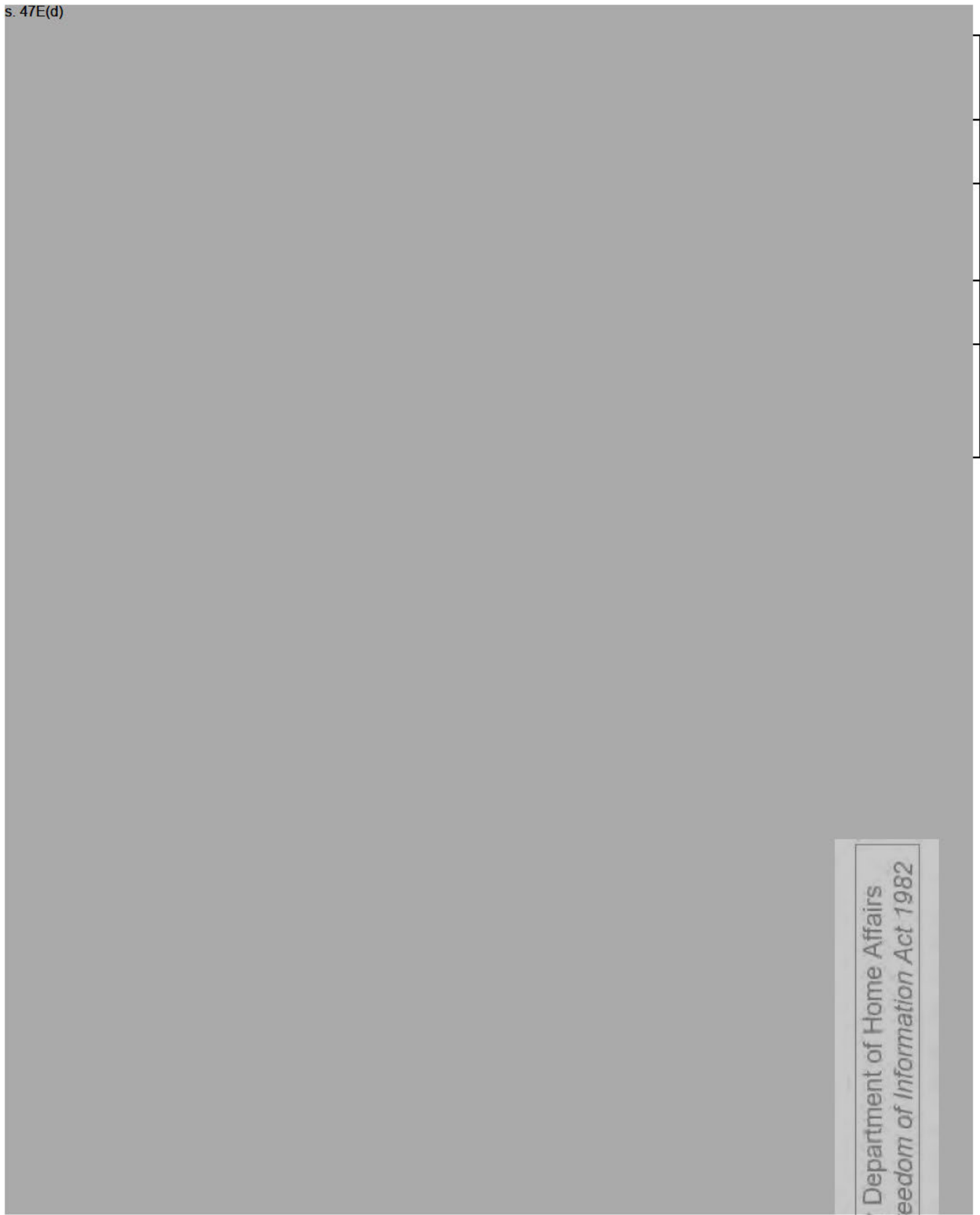
In the presence of:

Name:

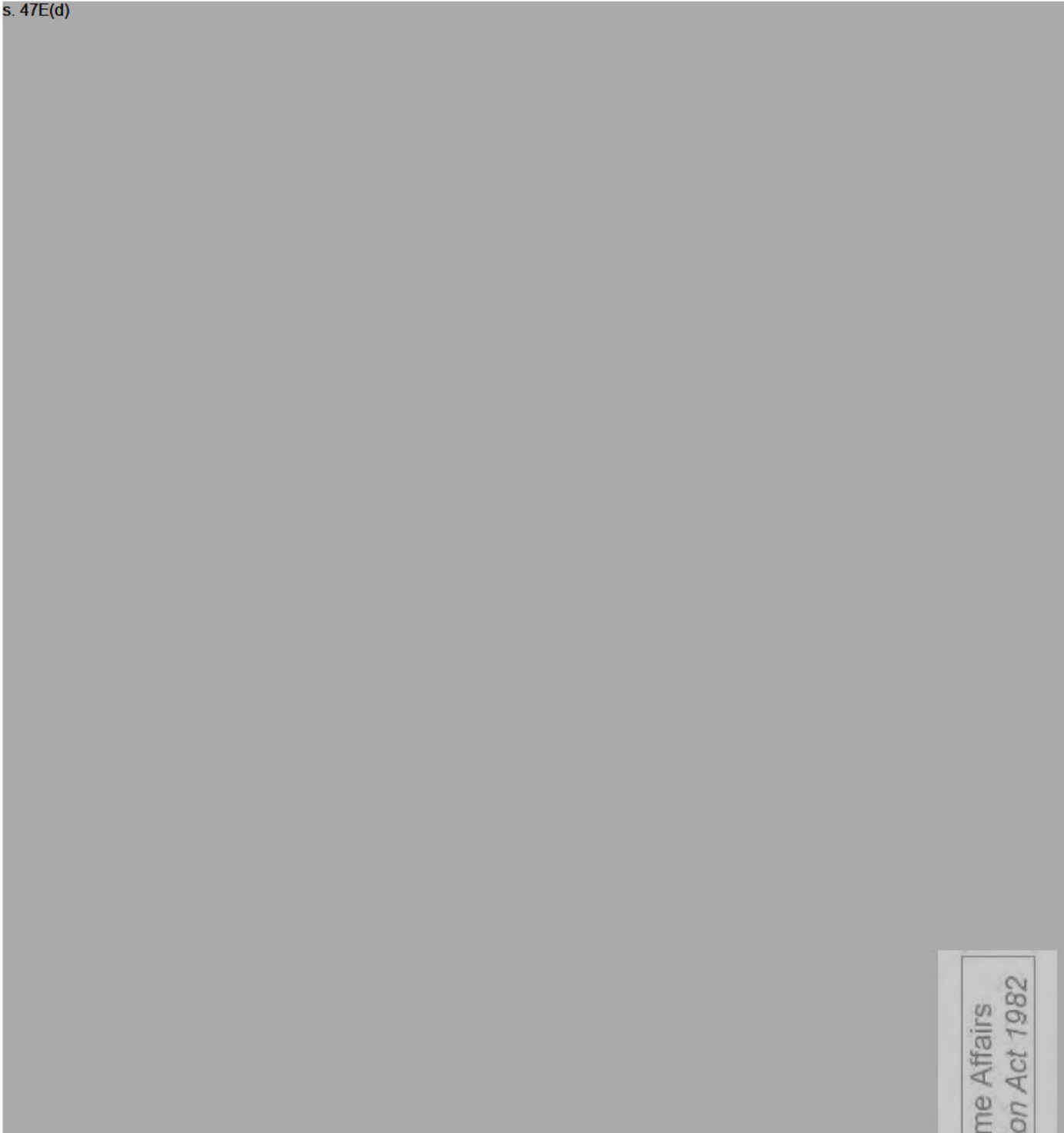
Date:

Released by Department of Home Affairs
under the Freedom of Information Act 1982

Released by Department of Home Affairs
under the *Freedom of Information Act 1982*

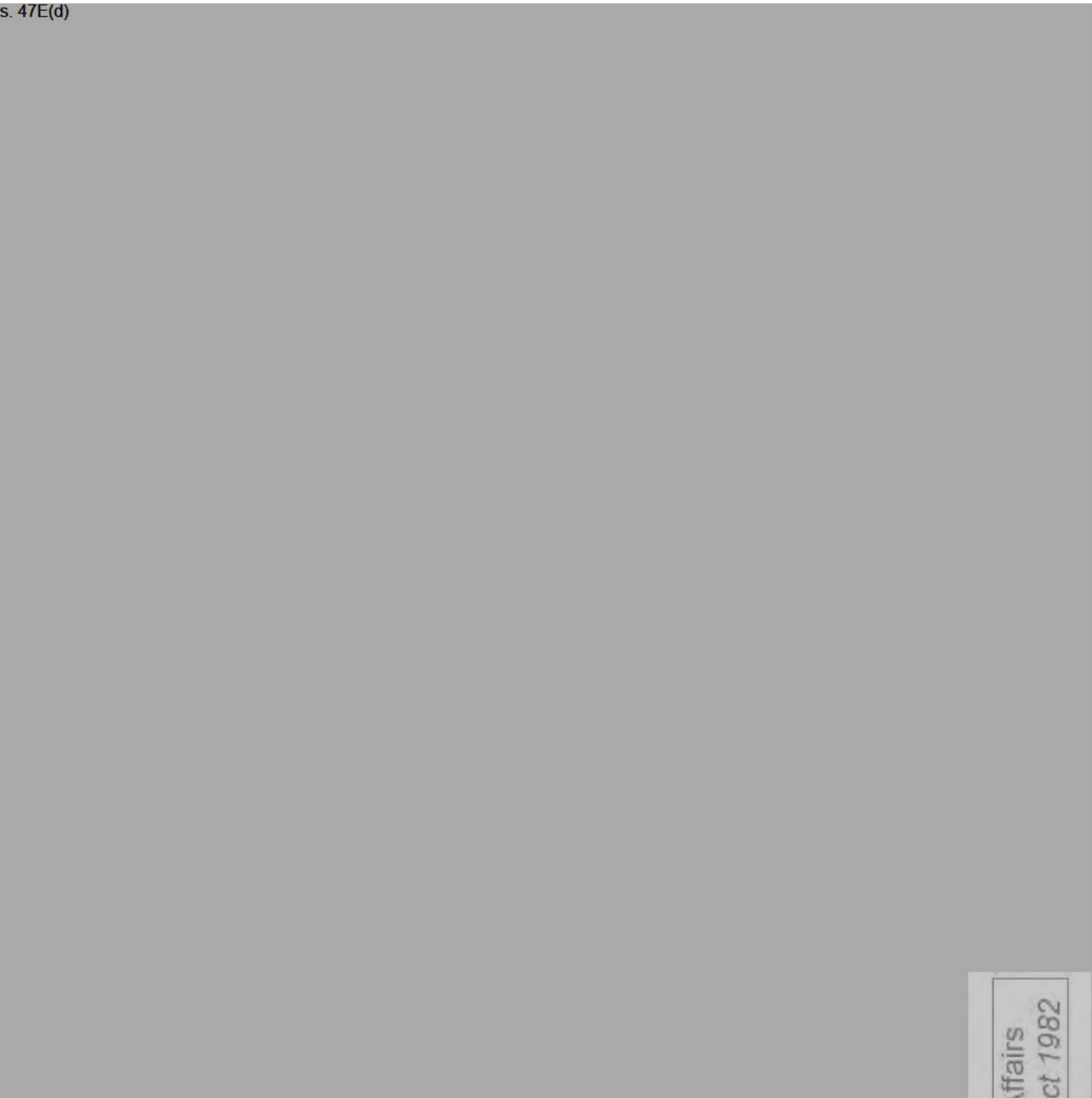


Released by Department of Home Affairs
under the *Freedom of Information Act 1982*



Released by Department of Home Affairs
under the *Freedom of Information Act 1982*

¹ Please refer to 5.10.9 of the APO Deed



Released by Department of Home Affairs
under the Freedom of Information Act 1982

² Please refer to 5.10.9 of the APO Deed



Released by Department of Home Affairs
under the *Freedom of Information Act 1982*