



**Australian Government
Department of Home Affairs**

**DESIGNATED AREA MIGRATION
AGREEMENT**

Between

**Commonwealth of Australia as represented by the
Minister for Immigration, Citizenship, Migrant Services and
Multicultural Affairs
(the Commonwealth)**

and

**State of Western Australia as represented the Department of
Training and Workforce Development
(the Designated Area Representative)**

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

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Parties

The Commonwealth of Australia as represented by the Department of Home Affairs (the "Commonwealth"). The Commonwealth's particulars are set out in **Item 1 of Schedule 1**.

AND

The State of Western Australia as represented by the Department of Training and Workforce Development (the "Designated Area Representative"). The Designated Area Representative's particulars are set out in **Item 2 of Schedule 1**.

Background

- A. This Agreement reflects the Commonwealth's intention to work with the Designated Area Representative to assist Australian businesses operating in the Designated Area to access workers from overseas to supplement the local labour force where acute skills and labour shortages exist.
- B. This Agreement sets out the process by which the Designated Area Representative and the Commonwealth will co-operate to facilitate Third Parties to enter into Labour Agreements for the purposes of accessing skilled and semi-skilled overseas workers in the Designated Area.
- C. Nothing in this Agreement affects each party's obligations under Law.

1. Definitions

- 1.1 This Deed is interpreted and adopts the definitions as specified in the Designated Area Migration Agreement (the "DAMA") unless the context indicates a contrary intention, words and phrases in this Agreement have the same meanings attributed to them in the Migration Act and the Migration Regulations.
- 1.2 Headings are for ease of reference only and do not affect interpretation.
- 1.3 In this Agreement:

Address means a party's address set out in **Item 1** and **Item 2 of Schedule 1**.

Adverse Information has the same meaning as in regulation 1.13A Migration Regulations.

Agreement or Designated Area Migration Agreement or DAMA means this Agreement, its schedules and attachments and any documents incorporated by reference in this Agreement.

Annual Turnover means all ordinary gross income earned in the ordinary course of business for the income year.

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ANZSCO means the Australian and New Zealand Standard Classification of Occupations and if applicable has the same meaning specified by the Minister in an instrument made under the Migration Regulations.

Auditor-General means the office established under the *Auditor-General Act 1997* (Cth) and any similar office established under the law of a State or Territory, and includes any other entity that may, from time to time, perform the functions of that office.

Australian where the context so admits, means an Australian citizen (whether born in Australia or elsewhere) or a non-citizen who, being usually resident in Australia, is the holder of a permanent visa granted under the Migration Act.

Australian Qualifications Framework (AQF) means the national policy for regulated qualifications in Australian education and training.

Business Address means the physical or postal address for a party, as set out in **Item 1** and **Item 2** of **Schedule 1**.

Business Day means a day that is not a Saturday, Sunday, or public holiday in the Australian Capital Territory or Western Australia.

Cease Date means the cease date specified in **Item 4** of **Schedule 1**.

Concessions means any variations to the requirements in the Migration Legislation including in relation to the occupation, skills, qualifications, employment background, level of English language proficiency and the Temporary Skilled Migration Income Threshold (TSMIT) required for the nomination and grant of a visa in relation to Overseas Workers in the Designated Area, as specified in **Schedules 4, 5, 6, 7 and 8** of this Agreement (or as otherwise specified by the Commonwealth). These Concessions may be included in a Labour Agreement associated with this Agreement.

Confidential Information means any information, documents and data that is:

(a) reasonably designated in any way as confidential; or

(b) which the recipient knows or ought to know is confidential,

that is provided by the Commonwealth or a Third Party to the Designated Area Representative for the Purpose, or by the Designated Area Representative to the Commonwealth for the Purpose, or that the recipient otherwise accesses or becomes aware of in relation to the Purpose.

Consequential Loss means indirect, incidental, or consequential loss or damage resulting from or arising out of the performance or non-performance of this Deed, including loss of profit, loss of use, loss of revenue, loss of anticipated profit, loss of production, or business interruption.

Contact Officer means the officers referred to in **Item 1** and **Item 2** of **Schedule 1**.

Department means the Department of Home Affairs or any department, agency or authority of the Commonwealth which is from time to time responsible for administering this Agreement.

Departmental Representative means an officer of the Department appointed by the Department to manage the Department's interests under this Agreement.

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Designated Area means the area defined in **Item 3 of Schedule 1**.

Designated Area Representative or **DAR** means the party identified in **Item 2 of Schedule 1**, and includes a reference to any replacement body.

Effective Date means the effective date specified in **Item 4 of Schedule 1**.

Email Address means a party's email address set out in **Item 1** or **Item 2 of Schedule 1** of this Agreement.

ENS visa means the Employer Nomination Scheme (subclass 186) visa.

Information Commissioner has the same meaning as in the *Australian Information Commissioner Act 2010* (Cth).

Labour Agreement means a labour agreement entered into by the Minister and a Third Party under the Migration Legislation in relation to one or more Occupations and relevant Concessions in the Designated Area and may include requirements specified in **Schedules 4, 5, 6, 7 and 8** of this Agreement.

Law means any applicable statute, regulation, by-law, ordinance or subordinate legislation in force from time to time in Australia, whether made by a State, Territory, the Commonwealth, or a local government, and includes the common law as applicable from time to time, including the Migration Legislation.

Maximum Numbers mean the maximum numbers of approved nominations for an Occupation in the Designated Area as specified in **Item 3.1 of Schedule 3**. This is also referred to as a 'nomination ceiling'.

Migration Act means the *Migration Act 1958* (Cth).

Migration Legislation means the Migration Act and/or the Migration Regulations and / or any instruments made under the Migration Act or Migration Regulations.

Migration Regulations means the *Migration Regulations 1994* (Cth).

Minister means a reference to a "Minister" appointed to administer the Department and includes where relevant, delegates of the Minister.

National Employment Standards has the same meaning as in the *Fair Work Act 2009* (Cth).

Objectives means the objectives of this Agreement as outlined in **Schedule 2**.

Occupations means those occupations prescribed in **Item 3.2 of Schedule 3**, and in **Schedule 4**.

Overseas Worker means a person nominated by, or proposed to be nominated by, a Third Party under a Labour Agreement.

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Period of this Agreement means the time period specified in **Item 4 of Schedule 1**.

Personal Information has the same meaning as in the *Privacy Act 1988* (Cth).

Purpose means, in respect of each party, the performance of their obligations under the Agreement, and any related purposes.

SESR visa means the Skilled Employer Sponsored Regional (Provisional) visa (Subclass 494).

State or Territory means a State or Territory of Australia.

State Nominated Migration Program means new primary applicants Western Australia nominates for two visa subclasses; Skilled Nominated Visa (subclass 190) and Skilled Work Regional (Provisional) visa (subclass 491).

Support Services means the services stipulated in **Schedule 10**.

Third Party means a person, company, partnership or an unincorporated association which has:

- (a) applied to be endorsed and may be, or will be, or has been, endorsed by the Designated Area Representative under this Agreement; or
- (b) who is a party to a Labour Agreement (other than the Minister).

TSMIT means the Temporary Skilled Migration Income Threshold specified in an instrument made under the Migration Regulations.

TSS visa means the Temporary Skill Shortage (subclass 482) visa.

2. Interpretation

In this Agreement, unless the context indicates a contrary intention:

- (a) **(documents)** a reference to this Agreement or another document includes any document which varies, supplements, replaces, assigns or novates this Agreement or that other document.
- (b) **(references)** a reference to a party, clause, paragraph, schedule or annexure is a reference to a party, clause, paragraph, schedule or annexure to or of this Agreement.
- (c) **(headings)** clause headings and the table of contents are inserted for convenience only and do not affect interpretation of this Agreement.
- (d) **(person)** a reference to a person includes a natural person, corporation, statutory corporation, body politic, partnership, the Crown and any other organisation or legal entity and their personal representatives, successors, substitutes (including persons taking by novation) and permitted assigns.

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- (e) **(party)** a reference to a party to a document includes that party's personal representatives, executors, administrators, successors, substitutes (including persons taking by novation) and permitted assigns.
- (f) **(requirements)** a requirement to do anything includes a requirement to cause that thing to be done, and a requirement not to do anything includes a requirement to prevent that thing being done.
- (g) **(including)** **including** and **includes** are not words of limitation, and a list of examples is not limited to those items or to items of a similar kind.
- (h) **(corresponding meanings)** a word that is derived from a defined word has a corresponding meaning.
- (i) **(singular)** the singular includes the plural and vice-versa.
- (j) **(gender)** words importing one gender include all other genders.
- (k) **(parts)** a reference to one or more things includes each part and all parts of that thing or group of things but nothing in this clause implies that part performance of an obligation constitutes performance of that obligation.
- (l) **(rules of construction)** neither this Agreement nor any part of it is to be construed against a party on the basis that the party or its lawyers were responsible for its drafting.
- (m) **(legislation)** a reference to any legislation or provision of legislation includes all amendments, consolidations or replacements and all regulations or instruments issued under it.
- (n) **(time and date)** a reference to a time or date in connection with the performance of an obligation by a party is a reference to the time and date in Australian Capital Territory, Australia, even if the obligation is performed elsewhere.
- (o) **(writing)** a reference to a notice, consent, request, approval or other communication under this Agreement or an agreement between the parties means a written notice, request, consent, approval or agreement.
- (p) **(replacement bodies)** a reference to a body (including an institute, association or any government, local government, statutory, administrative, fiscal or judicial body, department, commission, authority, tribunal, public authority or other person who exercises a relevant authority) which ceases to exist or whose powers or functions are transferred to another body is a reference to the body which replaces it or which substantially succeeds to its power or functions.
- (q) **(day)** a reference to a day is a reference to a calendar day.
- (r) **(month)** a reference to a month is a reference to a calendar month.

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3. Period

- 3.1 This Agreement commences on the Effective Date.
- 3.2 Unless terminated earlier in accordance with clauses 9.3 or 21, the Period of this Agreement will be the time specified in Item 4 of Schedule 1, being from the Effective Date until the Cease Date.

4. Purpose

The purpose of this Agreement is to:

- (a) achieve the Objectives;
- (b) outline the roles and responsibilities of the Designated Area Representative and the Commonwealth in achieving the Objectives;
- (c) set out the arrangements for the Designated Area Representative to assist the Commonwealth in administrative arrangements for processing applications for Labour Agreements and visas in the Designated Area, and monitoring of, and reporting on labour market conditions in the Designated Area.

5. Acknowledgements

- 5.1 The parties acknowledge and agree that this Agreement is not legally binding, and is not intended to, and does not create any legally enforceable obligations between them. However, the parties intend to act and cooperate in good faith in accordance with the terms of this Agreement.

- 5.2 The parties acknowledge and agree that:

- (a) without limiting paragraph (e), the Commonwealth may, by notice in writing, at any time request the Designated Area Representative to:
 - (i) amend or update the Objectives, Occupations, Maximum Numbers, Concessions and Support Services for the purposes of this Agreement; or
 - (ii) amend, update or replace any other content in Schedules 2 to 10 of this Agreement; and
 - (iii) the Commonwealth and Designated Area Representative will use reasonable endeavours to agree and implement the requested amendment, update or replacement;
- (b) this Agreement is not a Labour Agreement;
- (c) this Agreement does not have the effect of making the Designated Area Representative an approved sponsor (within the meaning of the Migration

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Legislation) and, for the avoidance of doubt, the obligations of an approved sponsor under the Migration Legislation do not apply to the Designated Area Representative;

- (d) neither party will be liable to the other party for any claims, loss or damage arising under or in connection with this Agreement;
- (e) nothing in this Agreement fetters or detracts from the discretions, functions or powers of the Minister and the Commonwealth under Law, including in determining:
 - (i) whether to enter into, suspend or terminate a Labour Agreement with a Third Party;
 - (ii) the content of a Labour Agreement; or
 - (iii) whether to grant or cancel any visa; and
- (f) nothing in this Agreement will affect the operation of any other existing WA Designated Area Migration Agreement listed in **Schedule 11**, and this Agreement is not intended to and will not amend, supersede or otherwise replace the terms of any of existing WA Designated Area Migration Agreement listed in **Schedule 11**.

6. Responsibilities of the Designated Area Representative

Collaboration

- 6.1 The Designated Area Representative will work collaboratively with the Commonwealth to achieve the Objectives.

Managing the endorsement process

- 6.2 The Designated Area Representative is responsible for endorsing a Third Party seeking access to a Labour Agreement associated with this Agreement, acting in accordance with the best of the Designated Area Representative's knowledge as at the time the endorsement is given.
- 6.3 In endorsing Third Parties, the Designated Area Representative will use reasonable endeavours to manage risks appropriately, including:
- (a) it treats all Third Parties impartially;
 - (b) it only endorses Third Parties seeking to enter into a Labour Agreement for the Occupations and Concessions;
 - (c) that Third Parties are aware of relevant requirements and obligations under the Migration Legislation;
 - (d) to the best of the Designated Area Representative's knowledge:
 - i. it only endorses Third Parties that meet Australian workplace and migration Laws;

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- ii. the Third Parties it endorses are aware of and capable of meeting migration requirements, including providing reports as necessary to meet auditing and Departmental requirements; and
 - iii. Third Parties seeking to sponsor Overseas Workers for visas with Concessions will only be endorsed by the Designated Area Representative where the Designated Area Representative is satisfied (acting reasonably in the circumstances) that the Concessions will not undermine the ability of the Overseas Worker to support themselves financially, or lead to exploitation of the Overseas Worker.
- 6.4 The Designated Area Representative will use reasonable endeavours to ensure that the Designated Areas Representative only endorses Third Parties for a Labour Agreement:
 - (a) for the Occupations and with the Concessions; and
 - (b) up to the Maximum Number.
- 6.5 If the Designated Area Representative endorses a Third Party to enter into a Labour Agreement then the Designated Area Representative must submit to the Commonwealth a letter of endorsement, in the form specified in **Schedule 9**, or such other form as is specified by the Commonwealth.
- 6.6 The endorsement provided by the Designated Area Representative must:
 - (a) specify that the letter of endorsement is submitted under this Agreement;
 - (b) detail the Third Party's name, including any business name, business and postal address or email, and Australian Business Number;
 - (c) attest that, to the best of the Designated Area Representative's knowledge:
 - i. the Third Party has genuinely sought to recruit, within the period specified by the Commonwealth, Australians to the requested Occupations in the Designated Area;
 - ii. the Designated Area Representative has monitored the labour market;
 - iii. the number of prospective Overseas Workers being requested by the Third Party to be engaged in the Designated Area in the Occupations and with the proposed Concessions (if any), are reasonable with regard to the current labour market conditions in those locations;
 - iv. endorsement supports the Objectives;
 - (d) attach the application and any supporting information provided to the Designated Area Representative by the Third Party in seeking endorsement; and
 - (e) be signed on behalf of the Designated Area Representative by a person who is authorised to represent and bind the Designated Area Representative.

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- 6.7 The Designated Area Representative must not endorse a Third Party if:
- (a) it reasonably believes the number of prospective Overseas Workers being requested by the Third Party to be engaged in certain locations and Occupations is not appropriate with regard to the current labour market conditions in those locations; or
 - (b) the Third Party has not genuinely sought to recruit, within the period specified by the Commonwealth, Australians to the requested Occupations in the Designated Area; or
 - (c) to the best of the Designated Area Representative's knowledge is aware of any Adverse Information about the Third Party, and in the assessment of the Designated Area Representative it would not be reasonable to disregard that Adverse Information.
- 6.8 The Designated Area Representative will use reasonable endeavours to put in place any measures it considers necessary to enable the Designated Area Representative to meet its obligations under clauses 6.2 to 6.7, and the monitoring, support, reporting and evaluation activities referred to in clauses 6.10 to 6.16, including, if necessary, entering into any binding undertakings or agreements with Third Parties.
- 6.9 The Designated Area Representative will provide reasonable assistance to the Commonwealth to support its assessment of applications for nominations or visa applications connected with a Labour Agreement as specified in **Schedule 10** of this Agreement or as otherwise agreed between the parties.
- 6.10 The final approval of nomination or visa applications lodged by approved sponsors is subject to the assessment of the Commonwealth, in accordance with relevant Migration Regulations.

Monitoring

- 6.11 The Designated Area Representative will use reasonable endeavours to:
- (a) monitor the labour market and the impact of government initiatives designed to assist unemployed, retrenched or disadvantaged Australians;
 - (b) ensure that Third Parties give first preference to Australians for a requested Occupation within the Designated Area before seeking to recruit, employ or engage Overseas Workers under a Labour Agreement associated with this Agreement; and
 - (c) identify any facts or circumstances that may be a breach of Law by a Third Party and report these to the relevant Commonwealth, State or Territory regulatory or enforcement bodies.

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Supporting employers and visa holders

- 6.12 The Designated Area Representative will provide the Support Services in the Designated Area as specified in **Schedule 10** of this Agreement.

Reporting

- 6.13 The Designated Area Representative agrees to attend management meetings as reasonably requested by the Commonwealth.
- 6.14 The management meeting may be attended in-person, via teleconference or via videoconference.
- 6.15 The Designated Area Representative agrees to report in writing on the progress of this Agreement and the current labour market in the Designated Area (including the use of Overseas Workers to supplement the local labour force):
- (a) annually on the anniversary of the Effective Date; and
 - (b) within 21 days when requested in writing by the Commonwealth.
- 6.16 Reporting should cover the matters requested by the Commonwealth.

Evaluation

- 6.17 The Designated Area Representative must provide a written evaluation to the Commonwealth within three (3) months following the first anniversary of this Agreement, and within three (3) months of each subsequent anniversary of the Agreement. The evaluation must include:
- (a) progress of the Agreement in meeting the Objectives, including the Designated Area Representative's assessment of whether there remains an ongoing labour market need for Overseas Workers in the Designated Area;
 - (b) details of any significant economic or social changes to the Designated Area that has impacted on the need for Overseas Workers to supplement the local labour force in the Designated Area;
 - (c) an assessment of changes in the employment of Australians and non-Australians in the Designated Area;
 - (d) evidence that the Designated Area Representative has been providing the Support Services during the relevant period; and
 - (e) other information as requested by the Commonwealth.

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Use of reports and evaluations

- 6.18 The Designated Area Representative agrees that the Commonwealth may use, copy, reproduce, adapt and modify any reports and evaluation material provided by the Designated Area Representative under this Agreement for any purpose related to the performance of the Commonwealth's functions and responsibilities, and warrants that the exercise of these rights by the Commonwealth as contemplated in this clause will not infringe the intellectual property or moral rights of any person.

7. Responsibilities of the Commonwealth**Consideration of Third Party Request for a Labour Agreement**

- 7.1 The Commonwealth will consider a Third Party's request to enter into a Labour Agreement on receipt of a letter of endorsement provided by the Designated Area Representative and may refer the request to the Minister for consideration.
- 7.2 If the Minister approves the Third Party's request for a Labour Agreement, the Minister may enter into a Labour Agreement with the Third Party in accordance with the Migration Legislation.
- 7.3 The Commonwealth will, subject to any confidentiality obligations in a Labour Agreement, provide the Designated Area Representative with a copy of any Labour Agreement entered into by the Minister and the Third Party.
- 7.4 If the Minister does not approve the Third Party's request to enter into a Labour Agreement, the Commonwealth will notify the Third Party and the Designated Area Representative of this decision.

Management and monitoring

- 7.5 The Commonwealth will manage this Agreement with regard to the Objectives.
- 7.6 The Commonwealth will monitor the Designated Area Representative's compliance with the terms of this Agreement.

8. Indemnity

- 8.1 Subject to clause 8.4 and clause 8.6, the Designated Area Representative indemnifies the Commonwealth from and against any cost, liability, loss or expense incurred by the Commonwealth, in dealing with any claim by a third party against the Commonwealth, including legal costs and expenses on a solicitor/own client basis and the cost of time spent, resources used or disbursements paid by the Commonwealth, arising from a negligent act or omission of the Designated Area Representative, or a material breach of clause 22 or clause 23 of this Agreement by the Designated Area Representative.
- 8.2 Subject to clause 8.4 and 8.6, the Commonwealth indemnifies the Designated Area Representative from and against any cost, liability, loss or expense incurred by the

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Designated Area Representative, in dealing with any claim by a third party against the Designated Area Representative, including legal costs and expenses on a solicitor/own client basis and the cost of time spent, resources used or disbursements paid by the Designated Area Representative, arising from a negligent act or omission of the Commonwealth, or a material breach of clause 22 or clause 23 of this Agreement by the Commonwealth.

- 8.3 The right of each party to be indemnified under this clause 8 is in addition to, and not exclusive of, any other right, power or remedy provided by law, but a party is not entitled to be compensated in excess of the amount of the relevant cost, liability, loss, damage or expense.
- 8.4 A party's liability to the other party under clause 8.1 or clause 8.2 will be proportionally reduced to the extent that the other party caused or contributed to the relevant cost, liability, loss, damage or expense.
- 8.5 The provisions of this clause 8 survive termination or expiration of this Agreement.
- 8.6 Under no circumstances will a party be liable to the other party for any Consequential Loss arising from any loss or liability in any way related to this Agreement.
- 8.7 Notwithstanding any other provision of this Agreement, and to the maximum extent permitted by law, each party's total liability to the other party arising out of or in connection to this Agreement, is limited in the aggregate for all claims to the maximum amount of \$5 million.

9. Dispute Resolution

- 9.1 The parties will deal with any dispute arising during the course of this Agreement as follows:
- (a) the party claiming that there is a dispute must notify the other party of the dispute;
 - (b) the parties will use reasonable endeavours to resolve the dispute by direct negotiation between the Contact Officers;
 - (c) if negotiations between the Contact Officers fail to resolve the dispute, the matter can be escalated to an appropriate level to ensure prompt resolution of the matter in a manner consistent with good administration.
- 9.2 Both parties will continue to meet their obligations under this Agreement until the dispute or issue is resolved or as otherwise notified by the Commonwealth.
- 9.3 If the dispute or issue is not resolved after the dispute resolution process in this clause 9 has been implemented, then either one of the parties may terminate this Agreement by giving 90 days' written notice to the other party.

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10. Access

10.1 The Designated Area Representative acknowledges that:

- (a) the rights of the Commonwealth under this Agreement are in addition to any relevant power, right or entitlement of the Auditor-General or the Information Commissioner; and
- (b) nothing in this Agreement reduces, limits, restricts or derogates from in any way any relevant function, power, right or entitlement of the Auditor-General or the Information Commissioner.

10.2 To the extent permitted by Law, The Designated Area Representative must allow the Commonwealth or its nominee access to the Designated Area Representative's premises, personnel, documents and other records, and all assistance reasonably requested, at all reasonable times to inspect and copy all relevant documentation and records, however stored, in the Designated Area Representative's possession or control, with respect to the Designated Area Representative's performance of its obligations under this Agreement.

10.3 The Commonwealth's rights in clause 10.2 are subject to:

- (a) the provision of reasonable prior notice to the Designated Area Representative;
- (b) compliance with the Designated Area Representative's reasonable security procedures; and
- (c) each party bearing its own cost arising out of or in connection with any access, audit or inspection.

10.4 The Designated Area Representative must provide any relevant information as requested by the Commonwealth from time to time, within 21 days of the Commonwealth's request (or such other time as may be reasonably agreed between the parties), with respect to the Designated Area Representative's performance of its obligations under this Agreement.

10.5 This clause 10 will survive for seven (7) years from the date of expiration or termination of this Agreement.

11. Retention of Documents

11.1 Each party must retain all documents relating to this Agreement for a minimum of 7 years from the expiration or termination of this Agreement.

12. Notices

12.1 Any notice, demand, consent or other communication given or made under this Agreement must be signed by the party giving or making it (or signed on behalf of that party by its authorised representative) except in the case of an email; and

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(a) left at, or sent by ordinary or pre-paid post to, the Business Address of the recipient;
or

(b) sent to the Email Address of the recipient.

12.2 A party may change its Business Address or Email Address for the purpose of service by giving notice of that change to the other party in accordance with this clause 12.

12.3 Any communication will be taken to be received by the recipient:

(a) in the case of a letter, on the third Business Day after the date of posting;

(b) in the case of an email, at the end of the day in which it is transmitted, providing the sender does not receive an email delivery failure notification in respect of the email.

13. Relationship Between Parties

13.1 Nothing in this Agreement:

(a) constitutes a partnership between the parties; or

(b) except as expressly provided, makes a party an agent of another party for any purpose,

13.2 A party cannot in any way or for any purpose;

(a) bind another party; or

(b) contract in the name of another party.

13.3 Each party will assist the other party in relation to the performance of the other party's role and functions under this agreement.

14. Time For Doing Acts

14.1 If the time for doing any act or thing required to be done or a notice period specified in this Agreement expires on a day other than a Business Day, the time for doing that act or thing or the expiration of that notice period is extended until the following Business Day.

14.2 If any act or thing required to be done is done after 5.00pm on the specified day, it is taken to have been done on the following Business Day.

15. Further Assurances, Variation

15.1 Each party must promptly execute all documents and do all other things reasonably necessary or desirable to give effect to the arrangements recorded in this Agreement.

15.2 Unless otherwise specified in this Agreement, a provision of this Agreement can only be varied by a later written document executed by or on behalf of all parties.

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16. No Assignment, Subcontracting

- 16.1 The Designated Area Representative cannot assign its rights under this Agreement without the prior written consent of the Commonwealth. The Commonwealth may impose conditions on any consent provided under this clause 16.1.
- 16.2 The Designated Area Representative must not, except with the Commonwealth's prior written approval, subcontract the whole or part of the Designated Area Representative obligations under this Agreement.
- 16.3 The Designated Area Representative must notify the Commonwealth if functions and powers relevant to this Agreement are transferred (or are to be transferred) to another government agency body (a replacement body) as a result of any administrative rearrangement or machinery of government change.

17. Legal Expenses

- 17.1 Each party must pay its own legal costs and disbursements in connection with the negotiation, preparation, execution and carrying into effect of this Agreement.

18. Entire Agreement

- 18.1 The contents of this Agreement constitute the entire agreement between the parties and supersede any prior negotiations, representations, understandings or arrangements made between the parties regarding the subject matter of this Agreement, whether orally or in writing.
- 18.2 If there is any inconsistency between the terms of this Agreement, a descending order of precedence will be accorded to:

- (a) the terms of this Agreement excluding schedules and attachments annexed to the Agreement;
- (b) the schedules to the Agreement;
- (c) any attachments annexed to the Agreement; and
- (d) any documents incorporated by reference into this Agreement,

so that the terms of the higher ranked document, to the extent of the inconsistency, will prevail.

19. Severability, Waiver

- 19.1 If any provision of this Agreement is held to be unlawful, invalid, unenforceable or in conflict with any Law, it is to be severed so that the validity and enforceability of the remaining provisions are not affected.

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- 19.2 A right or remedy created by this Agreement cannot be waived except in writing signed by the party entitled to that right. Delays by a party in exercising a right or remedy does not constitute a waiver of that right or remedy, nor does a waiver (either wholly or in part) by a party of a right operate as a subsequent waiver of the same right or of any other right of that party.

20. Conflict Of Interest

- 20.1 Each party warrants that, to the best of its knowledge after making diligent inquiry, at the date of signing this Agreement no conflict of interest exists or is likely to arise under this Agreement.
- 20.2 If, during the period of this Agreement, a party becomes aware of a conflict of interest or a risk of conflict of interest arising, each party undertakes to notify the other party immediately in writing of that conflict or risk.

21. Termination

- 21.1 Either party may, in its absolute discretion, terminate this Agreement at any time for any reason by giving 90 days' written notice to the other party.
- 21.2 If a party fails to satisfy any of its obligations under this Agreement, then the other party - *if it considers that the failure is:*
- (a) *not capable of remedy* - may, by notice, terminate this Agreement with 90 days' notice; or
 - (b) *capable of remedy* - may, by notice require that the failure be remedied within the time specified in the notice and, if not remedied within that time, may terminate the Agreement immediately by giving a second notice.
- 21.3 Neither party is entitled to any compensation or payments as a result of the termination of this Agreement under this clause 21.

22. Confidential Information

- 22.1 Each party agrees to use the Confidential Information only as is legitimate and necessary for the purpose of this Agreement.
- 22.2 Each party agrees to secure all Confidential Information against loss and unauthorised access, use, modification or disclosure.
- 22.3 Each party agrees to implement security procedures to ensure that it meets its obligations under this Agreement.
- 22.4 Each party will not, without the prior written authorisation of the other party, disclose any Confidential Information to any person, other than its officers, employees and contractors who require access for the purpose of this Agreement, unless the disclosure is required by law.

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- 22.5 An authorisation provided by a party under clause 22.4 may include reasonable conditions on the disclosure and the other party must comply with any such reasonable conditions.
- 22.6 Where a party is required to disclose the Confidential Information, it must:
- (a) use its best endeavours to notify the other party prior to disclosing the Confidential Information;
 - (b) provide the other party with full details of the relevant legal requirement and information to be disclosed; and
 - (c) take any reasonable action requested by, and reasonably cooperate with any action taken by, the other party to challenge, prevent or limit such disclosure.
- 22.7 Each party agrees to notify the other party immediately if it becomes aware of a breach or possible breach of any of its obligations under applicable privacy laws.
- 22.8 Each party agrees to notify the other party immediately, and provide full details, if it becomes aware or reasonably suspect that:
- (a) Confidential Information has, or might have been, accessed, used, modified or disclosed in any way other than as permitted under this Agreement; or
 - (b) there has been any other breach of this Agreement.
- 22.9 The provisions of this clause 22 survive termination or expiration of this Agreement.

23. Protection of Personal Information

- 23.1 This clause 23 applies only to the extent that a party deals with Personal Information (including personal information that is 'sensitive information') under this Agreement. Any capitalised terms have the same meaning as they have in the *Privacy Act 1988* (Cth) (the **Privacy Act**).
- 23.2 In addition to the requirements set out in clause 22 of this Agreement, each party agrees that it must ensure that it:
- (a) uses Personal Information provided by the other party, or collected on behalf of the other party only for the purposes for which it was provided or collected;
 - (b) protects Personal Information held on the other party's behalf from misuse, loss, unauthorised access or disclosure; and
 - (c) does not transfer Personal Information outside Australia, or allow parties outside Australia to have access to it, without the prior approval of the other party;
- 23.3 If a party becomes aware that there are reasonable grounds to suspect that there may have been, or where a party notifies the other party that there has been, an Eligible Data Breach

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in relation to any Personal Information held by that party as a result of this Agreement, the relevant party must:

- (a) notify the other party in writing as soon as possible, which must be no later than within three (3) days of becoming aware of the Eligible Data Breach;
- (b) take all reasonable action to mitigate the risk of the Eligible Data Breach causing serious harm to any of the individuals to whom the Personal Information relates;
- (c) co-ordinate and co-operate with the other party in relation to managing the consequences of the Eligible Data Breach, including taking the actions reasonably requested by the other party.

23.4 The Designated Area Representative must ensure that any subcontract entered into by the Designated Area Representative for the purpose of fulfilling its obligations under this Agreement (as approved by the Commonwealth in accordance with clause 16.2 of this Agreement) imposes on the subcontracted party the same obligations that the Designated Area Representative has under this clause 23 (including this requirement in relation to subcontracts).

23.5 The provisions of this clause 23 survive termination or expiration of this Agreement.

24. Governing Law and Jurisdiction

24.1 The laws applicable in the Australian Capital Territory govern this Agreement.

24.2 The parties submit to the non-exclusive jurisdiction of the courts of Australian Capital Territory and any courts competent to hear appeals from those courts.

25. Counterparts

25.1 This Agreement may consist of a number of counterparts and the counterparts taken together constitute one and the same instrument.

Schedule 1 Particulars

Item 1 Commonwealth Particulars

Name: Department of Home Affairs
 ABN: 33 380 054 835
 Business Address: 6 Chan St, Belconnen ACT 2617
 Email Address: s.22(1)(a)(ii)@homeaffairs.gov.au
 Contact Officer: Director, Labour Agreements Section

Item 2 Designated Area Representative Particulars

Name: State of Western Australia as represented by the Department of Training and Workforce Development
 Business Address: Djookanup (Building)
 16 Parkland Road
 Osborne Park WA 6017
 Postal Address: Locked Bag 16
 Osborne Park DC 6916
 Email Address: s.22(1)(a)(ii)
 Contact Officer: Director, State Workforce Planning
 Email Address: s.22(1)(a)(ii)
 Contact Officer: Director, Service Delivery Operations; Associate Director Migration Services

Item 3 Designated Area

The Designated Area covered by this Agreement: The State of Western Australia (WA) comprising of the following regional categories:

- **Metropolitan Perth:**
 - Consistent with Category 2: Cities and Major Regional Centres: postcodes 6000-6038, 6050-6083, 6090-6182, 6208-6211, 6214 and 6556-6558.
- **Regional Western Australia:**
 - All other Western Australian postcodes*;
 - Fly-in-fly-out workers are excluded based on the location of the position.

* Where an occupation covered by this Agreement is available in an existing DAMA and that DAMA remains in effect, employers located in relevant areas of Regional Western Australia will be referred for consideration under the relevant DAMA that is in operation.

Item 4 Commencement and period

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Effective Date: The date on which this Agreement is signed by the parties, or if signed on separate days, the date of the last signing.

Cease Date: Five (5) years from the Effective Date.

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Schedule 2 Objectives of the Designated Area Migration Agreement

The objectives of the Agreement are to complement existing Australian Government initiatives to address skills and labour shortages by:

- 1) Providing the State of Western Australia with a flexible mechanism to address workforce shortages and support workforce planning.
- 2) Enabling employers in Western Australia, who are unable to recruit appropriately qualified Australians, to supplement their workforce with access to Overseas Workers.
- 3) Enhancing the economic performance of Designated Area employers who enter into associated Labour Agreements.
- 4) Ensuring that Overseas Workers sponsored through Labour Agreements receive terms and conditions that meet applicable Australian workplace Law and are no less favourable than those provided to Australian workers.
- 5) Promoting the training of Australians by employers entering into a Labour Agreement.

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Schedule 3 Occupations and Maximum Numbers

Item 3.1 Maximum Number of approved nominations

- Year 1 – 5 10,000 nominated places annually, split between WA's State Nominated Migration Program and the WA Designated Area Migration Agreement, of which for the Designated Area Migration Agreement:
- 50% approved DAMA nominations for occupations in Metropolitan Perth area
 - 50% approved DAMA nominations for occupations in Regional Western Australia

The following occupations are approved under this Agreement*:

* Where the nominated occupation is available under an existing Industry Labour Agreement (ILA), the nominated occupation can only be approved if the Overseas Worker will be employed in an industry that is different to the industry provided in the relevant ILA.

Table 1A: Western Australia DAMA Occupations List –Metropolitan Perth (Refer to Attachment A)

Table 1B: Western Australia DAMA Occupations List – Regional Western Australia (Refer to Attachment B)

Item 3.2 Caveats not to apply

None of the matters specified in an instrument made under subregulation 2.72(9) of the Migration Regulations applies to any occupation specified in this Agreement.

Schedule 4 Occupations not in ANZSCO

The parties agree to the inclusion of the following occupations, not listed in ANZSCO, in this Agreement. For the purposes of nomination application and assessment, the tasks and relevant 6-digit codes for these occupations are outlined below:

ANZSCO or 6 digit code	Occupation	Indicative Skill level
070499	Civil Construction Supervisor	3
070499	Directional Driller	3
070499	Decarbonisation Advisor	1
070499	Electrolyser Technician	2
070499	Fuel Cell Technician	2
070499	Hydrogen Process Operator	3
070499	Wind Blade Technician	2
070499	Process Technician	4

Occupation: Civil Construction Supervisor (Equivalent to ANZSCO Skill Level 3)

6-digit Code: 070499

A Civil Construction Site Supervisor is responsible for the coordination and supervisions of all aspects of civil construction and infrastructure site operation.

Tasks:

- Monitor daily output for cost effectiveness
- Co-ordination and control of site operation in conjunction with the Project Manager
- Ensure project program is achieved or surpassed
- Preparation of daily diary and time sheets
- Implementation of inspection and test plans
- Implementation of project management plans, associated site-specific risk analysis and project WHS&E requirements
- Induct all workers before starting on site
- Attend and organise site/staff meetings as required, in accordance with occupational, health and safety policies and company procedures.
- Ensure that contractors and their employees comply with the project safety plan and procedures, through review and management of subcontractor WHS&E documents
- Participate in regular safety audits and undertake weekly safety inspections
- Programming and setting-out the plant and manpower required to meet project outcomes each day
- Organise survey and set-out

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- Cross-reference site survey with construction drawings and specifications prior to and during work
- Ensure that all lasers levels, etc are correctly set up (line, level and grade)
- Ensure lasers and levels are calibrated
- Check that all relevant work is carried out in accordance with the drawing specifications, codes and requirements of the relevant authorities
- To undertake any physical work as part of the manpower resource for the project
- To ensure adequate material are on site ahead of time to undertake works and coordinate with the Project Manager for specific requirements to pre-plan materials on site
- Ensure the Procurement Manager is provided with sufficient notice for delivery of materials
- Ensure that the Construction Manager is provided with sufficient notice when plant and equipment is free to go to another site
- To ensure all materials are delivered to site are checked and signed for and all delivery dockets are kept and recorded on the daily diary work sheets.
- To keep a daily record of all site activities, deliveries, plant movement, manpower, weather conditions, variations and site inductions, in daily diary
- To check and certify all staff timecards and ensure that they are correctly signed by the employee
- To ensure that plant operators undertake the service requirement for each item of plant under their control and notify plant manager of any service/repair requirements
- Ensure that site and plant on site is secure each night and that plant and equipment is securely locked in container as required
- Notify Project Manager of daily activities, particularly inspections. Investigate and report incidents/accidents to the Project Manager immediately as they occur on site.
- Keep inspection and test plans up to date and ensure clients and the office are informed of our current status
- Conduct site safety and environmental inspections and record on appropriate form
- To ensure all staff on site are qualified to operate machinery by checking all operators' tickets, licences, and white cards during the site induction.

Skills, qualifications and experience: The skills, qualifications and experience for the occupation of Civil Construction Supervisor are as per **Schedule 5** of this Agreement.

Occupation: Directional Driller (Equivalent to ANZSCO Skill Level 3)

6-digit Code: 070499

Directional Driller specialises in drilling at various angles, rather than just vertically, to reach targets and navigate around obstacles in the subsurface. This technique is often used in oil and gas extraction, particularly in unconventional reservoirs like shale or in situations requiring precise control over the well path.

Tasks:

- Planning and executing the trajectory of the drill to hit specific targets.
- Using specialised tools and technology to control the direction of the drill bit.
- Collaborating with geologists and engineers to adjust the drilling path as needed.

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- Interpreting data from downhole sensors to ensure accuracy.
- Ensuring efficient and safe operations while drilling non-vertical wells.

Skills, qualifications and experience: The skills, qualifications and experience for the occupation of Directional Driller are as per **Schedule 5** of this Agreement.

Occupation: Decarbonisation Advisor (Equivalent to ANZSCO Skill Level 1)

6-digit Code: 070499

Decarbonisation Advisor provides advice and guidance to businesses on understanding their carbon emissions profile and identify abatement opportunities to meet targets and obligations.

Tasks:

- Analyse data on greenhouse emissions (scopes 1, 2 & 3), energy, water, and waste, ensuring accuracy and compliance.
- Provide expert advice on emissions reduction processes, targets, and legislation, and contribute to reports and presentations.
- Monitor the environmental performance of organisations or projects, identify issues, and support risk assessments for business objectives.
- Conduct analysis and modelling to forecast and assess carbon emissions and the economic viability of decarbonisation projects.
- Engage stakeholders in promoting sustainability and provide leadership in integrating sustainability within teams.

Skills, qualifications and experience: The skills, qualifications and experience for the occupation of Decarbonisation Advisor are as per **Schedule 5** of this Agreement.

Occupation: Electrolyser Technician (Equivalent to ANZSCO Skill Level 2)

6-digit Code: 070499

Electrolyser Technicians oversee the operation and maintenance of electrolysis equipment, ensuring efficient production of hydrogen from water electrolysis in laboratory or industrial settings.

Tasks:

- Assist engineers in the design, manufacture and testing of electrolysis equipment and plants
- Assemble and install new and modified electrolyser components, tools and controls
- Perform and direct field and laboratory tests
- Collect and analyse data on electrolyser performance and prepare reports
- Organise and supervise inspection and maintenance of electrolyzers
- Ensure that designs and finished work are within specifications, regulations and contract provisions

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- Collaborate with team members to diagnose and troubleshoot technical issues.

Skills, qualifications and experience: The skills, qualifications and experience for the occupation of Electrolyser Technician are as per **Schedule 5** of this Agreement.

Occupation: Fuel Cell Technician (Equivalent to ANZSCO Skill Level 2)

6-digit Code: 070499

Fuel Cell Technicians install and maintain fuel cell systems in automotive and stationary industrial systems to generate electrical power through electrochemical reactions involving hydrogen and other chemicals.

Tasks:

- Assist engineers in the design, manufacture and testing of fuel cells
- Install, maintain, and operate fuel cell systems and equipment
- Perform and direct fuel cell tests
- Collect and analyse data on fuel cell performance and prepare reports
- Organise and supervise inspection and maintenance of fuel cells and fuel cell powered vehicles
- Ensure that designs and finished work are within specifications, regulations and contract provisions
- Provide advice and training to other staff and customers on fuel cells, including safety and risk management

Skills, qualifications and experience: The skills, qualifications and experience for the occupation of Fuel Cell Technician are as per **Schedule 5** of this Agreement.

Occupation: Hydrogen Process Operator (Equivalent to ANZSCO Skill Level 3)

6-digit Code: 070499

Hydrogen Process Operators specialise in overseeing the production, purification, and handling and safety protocols of hydrogen gas within industrial facilities.

Tasks:

- Control equipment performing continuous and batch processes like electrolysis, steam methane reforming, ensuring optimal production and safe handling of hydrogen
- Inspect hydrogen process equipment to ensure proper operation, setting operating controls, and addressing any deviations
- Maintain detailed records of hydrogen production, quantities transferred, and blending and pumping operations
- Conduct regular checks on hydrogen process equipment for malfunctions and coordinate maintenance activities
- Monitor the operation of hydrogen process plants, interpreting instrument readings to ensure optimal performance
- Authorise procedures to isolate high-voltage and low-voltage electrical apparatus and plant equipment as necessary for safety and maintenance purposes

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- Perform routine operating tests to maintain operational efficiency and safety standards

Skills, qualifications and experience: The skills, qualifications and experience for the occupation of Hydrogen Process Operator are as per **Schedule 5** of this Agreement.

Occupation: Wind Blade Technician (Equivalent to ANZSCO Skill Level 2)

6-digit Code: 070499

Tasks:

- Perform routine maintenance and inspections on wind turbine components, ensuring compliance with safety regulations and procedures.
- Troubleshoot and repair electrical, mechanical, and hydraulic malfunctions of wind turbine systems.
- Replace worn or damaged components and apply protection coatings and sealants to blade surfaces.
- Collect and analyse data from wind turbine sensors and monitoring systems for maintenance optimization.
- Maintain accurate records of all maintenance and repair activities for traceability.
- Utilise blade access platforms, boom trucks, and rope access for inspections and repairs at heights exceeding 300ft.
- Assist in site preparation coordination and communicate site status to engineering, customers, and management.
- Promote and practice safety in all work areas, including implementing Lock Out & Tag Out procedures for turbine maintenance.

Skills, qualifications and experience: The skills, qualifications and experience for the occupation of Wind Blade Technician are as per **Schedule 5** of this Agreement.

Occupation: Process Technician (Equivalent to ANZSCO Skill Level 4)

6-digit Code: 070499

Tasks:

- Designing and troubleshooting business processes including starting up and shutting down process
- Maintaining equipment
- Optimising processes
- Diagnosing problems
- Safe operation of the process plant to ensure operation are maintained at the most efficient level in accordance with standard operating procedures
- Liaising with metallurgical and maintenance personnel
- Conducting routine monitoring duties, which includes sampling, inspection and record keeping in the shift logbook
- Reporting on safety, plant performance and raising technical issues with the goal of optimising plant productivity
- Providing additional support to maintenance trades and relief operation as required.

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Skills, qualifications and experience: The skills, qualifications and experience for the occupation of Process Technician are as per **Schedule 5** of this Agreement.

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Schedule 5 Qualifications and Experience

The following skills, qualifications, experience and employment background requirements apply to the occupations listed in the tables below in relation to the TSS and SESR visas and where eligible, under the permanent residence pathway and ENS visa.

5.1 Skills Assessment

Qualifications are to be assessed by the relevant Skills Assessing Authority as being at least equivalent to the relevant Australian Qualifications Framework (AQF) qualification.

5.2 Work experience

Where requested, work experience must be certified as being genuine and relevant to the nominated occupation/position, in order to assist the Minister's decision as to whether the visa applicant has the necessary employment background for the position.

Work experience to fulfil visa requirements:

- Must be relevant to the nominated occupation and at the required skill level; and
- Must be full time or part time pro rata equivalent unless otherwise specified below. Full-time work should be in accordance with the National Employment Standards; and
- Must be undertaken in the last five (5) years; and
- Can be undertaken concurrently with work experience used to substitute qualifications, provided the work experience was at the skilled level.

Any nomination for occupations approved under this agreement or any application for a TSS, SESR or ENS visa connected with these occupations must satisfy the skills, qualifications, experience and employment background required under the standard TSS, SESR and ENS visa programs except:

- Have at least one (1) year of relevant full time or part time pro rata equivalent work experience for the TSS visa program; or
- Have at least two (2) years of relevant full time or part time pro rata equivalent work experience for the SESR or ENS visa programs, where the nominated worker will be living and working in Regional Western Australia; or
- Have at least three years (3) of relevant full time work experience or part time pro rata equivalent work experience for the SESR or ENS visa programs, where the nominated worker will be living and working in Metropolitan Perth.

5.3 Qualifications

For all ANZSCO occupations, an applicant must:

- Meet the skill level requirements as defined in ANZSCO;

AND

- Where ANZSCO allows, this would include work in lieu of the formal qualification; and applies unless overridden by Australian law*

*Child Care Worker (SL3) is subject to the Education and Care Services National Law which outlines minimum qualification standards nationally.

For all Non-ANZSCO occupations, an applicant must:

- Meet the indicative skill level requirements as defined in ANZSCO;

AND

- Where ANZSCO allows, this would include work in lieu of the formal qualification

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Schedule 6 Temporary Skilled Migration Income Threshold (TSMIT)

In relation to the nomination of occupations for TSS, SESR and ENS visas, the Designated Area Representative acknowledges that the following additional requirements must be met by a Third Party. These requirements will be included in the Labour Agreements associated with this Agreement.

For all occupations;

'Annual Market Salary Rate' (AMSR) has the same meaning as in regulation 1.03 of the Migration Regulations: the earnings an Australian citizen or an Australian permanent resident earns or would earn for performing equivalent work on a full time basis for a year in the same workplace at the same location. It is determined in accordance with the instrument which specifies the method for determining the Annual Market Salary Rate for an occupation nominated under section 140GB of the Migration Act or an occupation in relation to which a position is nominated under regulation 5.19 of the Migration Regulations.

'Annual Earnings' means an Overseas Worker's Earnings calculated on an annual basis.

The Annual Earnings must be equal to or greater than TSMIT.

'Earnings' has the same meaning as in regulation 1.03 of the Migration Regulations, which provides that earnings has a meaning affected by regulation 2.57A of the Migration Regulations.

Schedule 7 English Language Requirement

In this Schedule, IELTS means the International English Language Testing System or the equivalent in another accepted English language test.

Other accepted English language tests are:

- Occupational English Test (OET);
- Test of English as a Foreign Language internet-based test (TOEFL iBT);
- Pearson Test of English (PTE) Academic test; or
- Cambridge English: Advanced (CAE) test.

The English language requirements may be met if a visa applicant would be regarded as an 'exempt applicant' for the purpose of the legislative instruments applicable to TSS, SESR and ENS visas.

For any skill level 1-2 Occupations, the Overseas Worker is required to meet the minimum standard English language requirements applicable to the TSS, SESR and ENS non-labour agreement visa streams under the Migration Regulations.

For any skill level 3-4 Occupations, the following English language concessions apply:

- **TSS and SESR concession:** overall score of IELTS 5.0 (or equivalent) with no IELTS minimum band score (unless registration or licensing requires a higher level of English).
- **ENS concession:** overall score of IELTS 5.0 (or equivalent) with no band score lower than IELTS 4.0 (or equivalent) (unless registration or licensing requires a higher level of English).

Schedule 8 Permanent Residence Pathway

A permanent residence pathway for Overseas Workers may be available via the Subclass 494 (Skilled Employer Sponsored Regional) (Provisional) (SESR) and through the Subclass 186 (Employer Nomination Scheme) (ENS) visa programs for all occupations approved under this agreement.

The following conditions will ordinarily be included in a Labour Agreement and will apply to any nomination for an ENS visa (in addition to the ENS requirements outlined in the Migration Legislation).

- (a) The Third Party's ENS nomination identifies an Occupation approved under this Agreement that was the subject of the most recently approved TSS visa for the Overseas Worker; and
- (b) The Overseas Worker, at the time of an application for approval of the ENS nomination ('the ENS nomination'), holds a TSS visa granted in connection with this Agreement; and
- (c) One of the following applies:
 - i. Where the Overseas Worker lived and worked in Metropolitan Perth, the Overseas Worker has been employed on a full-time basis, in the ENS nominated occupation, an occupation approved under this Agreement, or a closely related occupation also specified under this Agreement; for a period of 3 years before the ENS nomination is made; or
 - ii. Where the Overseas Worker lived and worked in Regional Western Australia, the Overseas Worker has been employed on a full-time basis, in the ENS nominated occupation, an occupation approved under this Agreement, or a closely related occupation also specified under this Agreement; for a period of 2 years before the ENS nomination is made.
- (d) For the whole time that the Overseas Worker was employed in accordance with paragraph (c):
 - the Overseas Worker must have held a TSS visa granted in connection with this Agreement; and
 - the Overseas Worker must have lived and worked in the Designated Area outlined in Item 3 of Schedule 1 of this Agreement; and
- (e) The Overseas Worker identified in the ENS nomination will be employed on a full-time basis in the position for at least 2 years, and
- (f) The terms and conditions of employment of the Overseas Worker will not include an express exclusion of the possibility of extending the period of employment.

Item 8.1 Age Concession

There is an age concession for the ENS and SESR visa programs of:

55 years for Overseas Workers in skill level 1 – 4 occupations approved under this Agreement

Item 8.2 Labour market testing requirements

Evidence of labour market testing must accompany TSS or SESR Nominations lodged in accordance with this Agreement. The labour market testing must have been conducted in the last 12 months prior to lodging the nomination application.

Location of Business (Designated Regional Area)	LMT requirements
Metropolitan Perth as specified in Item 3 of Schedule 1	The Sponsor must be able to demonstrate at least two (2) separate advertisements to test the Australian labour market for the nominated occupation.
Regional Western Australia as specified in Item 3 of Schedule 1	The Sponsor must be able to demonstrate at least two separate advertisements to test the Australian labour market for the nominated occupation. • one advertisement must have national reach. • the other may be advertised locally (within the designated area only). The evidence provided should be equivalent to that required under the Standard skilled visa program but may include advertising conducted on either the Sponsor's and/or industry website.

Schedule 9 Letter of Endorsement

[Insert letterhead]

[Insert date]

The Director
Labour Agreement Section
Department of Home Affairs

Via email to: **s.22(1)(a)(ii)** [@homeaffairs.gov.au](mailto: @homeaffairs.gov.au)

Dear Director,

Letter of Endorsement for [insert Third Party's name]

The Government of Western Australia's Department of Training and Workforce Development is the Designated Area Representative under the Designated Area Migration Agreement (the "Agreement") with the Commonwealth of Australia as represented by the Department of Home Affairs ("Commonwealth").

This letter of endorsement is provided pursuant to clause 6.6 of the Agreement. Under clause 6.6 of the Agreement, the Department of Training and Workforce Development endorses *[insert name of Third Party employer]* to enter into a Labour Agreement for the purpose of accessing overseas workers in the Designated Area.

I attest that to the best of the Designated Area Representative's knowledge:

1. all reasonable steps have been taken to monitor the *[Metropolitan Perth or Regional Western Australia]* labour market; and
2. this endorsement:
 - a. complies with the requirements of clause 6 of the Agreement; and
 - b. supports the Objectives of the Agreement.

I also attest that to the best of the Designated Area Representative's knowledge *[insert name of Third Party employer]*:

3. has genuinely sought to recruit, within the *[previous twelve (12) months – this period will be specified by the Commonwealth in accordance with clause 6.6(c) of the Agreement]*, Australian citizens and permanent residents to the requested occupations in Western Australia; and
4. has, with regard to the current labour market conditions, made a reasonable request with regards to both numbers and occupations to be filled by Overseas Workers in the Western Australia.

The details of the *[insert name of Third Party employer]* are provided for reference:

	Details
Registered Name of Business and State or Territory where Registered	
Registered Trading Name (if any)	
Business Address (including postcode)	
Australian Business Number (ABN)	
Postal Address	
Email Address	
Contact Person	
Business Contact Phone Number	

Subject to clause 6.2 of the Agreement, I endorse and convey a request for *[insert name of Third Party employer]* to enter into a Labour Agreement under the Agreement for the following occupations, number and concessions detailed at **Attachment A**.

Enclosed are all documents submitted to the DAR for endorsement at **Attachment B**.

I will inform *[insert name of Third Party employer]* of their sponsorship obligations and that all nomination and visa applications lodged with the Commonwealth will be assessed in accordance with the Migration Legislation.

Yours sincerely,

[Insert details]

To be signed by an officer who has the authority to represent and bind the DAR as specified in Item 2 of Schedule 1.

Schedule 9a Attachment A

Endorsed occupations, numbers and concessions for *[insert name of Third Party]*

Temporary Skill Shortage (TSS)

ANZSCO or 6 Digit Code	Occupation	Employment location (including postcode)	Maximum number of approved nominations in Year	Concession to English requirement applicable as per Schedule 7
				Yes/No

Skilled Employer Sponsored Regional (SESR) visa

ANZSCO or 6 Digit Code	Occupation	Employment location (including postcode)	Maximum number of approved nominations in Year	Concession to English requirement applicable as per Schedule 7	Concession to Age (over 45 years) applicable per Schedule 8.
				<i>Yes/No</i>	<i>Yes/No</i>

Employer Nomination Scheme (ENS)

ANZSCO or 6 Digit Code	Occupation	Employment location (including postcode)	Maximum number of approved nominations in Year	Concession to English requirement applicable as per Schedule 7	Concession to Age (over 45 years) applicable per Schedule 8
				<i>Yes/No</i>	<i>Yes/No</i>

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Schedule 10 Support Services

The Designated Area Representative to the best of its ability will ensure that all Overseas Workers engaged under a Labour Agreement are supplied with information to assist their arrival in Australia and to develop links with the broader community. Information should include:

- (a) workplace rights and entitlements;
- (b) local area services such as health, emergency and educational services;
- (c) community activities and religious services;
- (d) living costs in the Designated Area; and
- (e) English language services (education and translating and interpreting services (TIS National)).

The information referred to above should be provided to the Overseas Worker prior to being engaged by the Third Party. Where the Overseas Worker is already employed by the Third Party, the information should be provided to the Overseas Worker prior to their initial application for a visa. Information about workplace rights and entitlements will be provided to an Overseas Worker who has been living and working in the Designated Area for at least twelve months prior to the visa application.

The Designated Area Representative will:

1. provide a 'one-stop shop' for Third Parties seeking endorsement under the Agreement and supporting requests from Third Parties to be decision ready prior to endorsement;
2. put in place appropriate arrangements with the relevant work safety authorities to mitigate potential workplace risks;
3. assess requests by Designated Area employers for variation to concessions, and managing the associated risks; and
4. provide ongoing monitoring and assistance to Third Parties who have signed a Labour Agreement.

Schedule 11 Existing WA Designated Area Migration Agreements

The following are the Designated Area Migration Agreements currently in place between the Commonwealth and entities in regional Western Australia.

In accordance with clause 5.2(f), the parties agree that each Designated Area Migration Agreement listed below is not affected by this Agreement and continues to remain in force (unless and until otherwise expired or terminated in accordance with its terms):

Item	Regional Area	Parties	Date of Agreement
1	Goldfields	City Of Kalgoorlie Boulder and Home Affairs	March 2019
2	Kimberley	East Kimberley Chamber of Commerce and Home Affairs	March 2022
3	Pilbara	RDA Pilbara and Home Affairs	March 2022
4	South West	Shire of Dardanup and Home Affairs	December 2021

Signing Page for Designated Area Migration Agreement

Executed as a Deed

SIGNED SEALED AND DELIVERED for and on behalf of the COMMONWEALTH OF AUSTRALIA under the written authority of the Minister for Immigration, Citizenship and Multicultural Affairs by its duly authorised officer in the presence of

PATRICK BRYSON
[Print name]

s.22(1)(a)(ii)

Date of signing: 28/6/2024
dd/mm/yyyy

s.22(1)(a)(ii)

[Print name of Witness]

s.22(1)(a)(ii)

[Signature of Witness]

Date of signing: 28/06/2024
dd/mm/yyyy

Signed for and on behalf of
the State of Western Australia
by the Director General of the Department of Training
and Workforce Development in the
presence of:

s.22(1)(a)(ii)

[Print name of Director General]

s.22(1)(a)(ii)

[Signature of Director General]

Date of signing: 28/6/2024
dd/mm/yyyy

s.22(1)(a)(ii)

[Print name of Witness]

s.22(1)(a)(ii)

[Signature of Witness]

Date of signing: 28/6/2024
dd/mm/yyyy

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Attachment A - Table 1A: Western Australia DAMA Occupations List –Metropolitan Perth

Table 1: Perth Metropolitan Area - Eligible Occupations

ANZSCO	Occupation Name (Tier 1)	Skill Level
121612	Fruit Grower	1
121616	Vegetable Grower	1
121617	Wine Grape Grower	1
133111	Construction Project Manager	1
133112	Project Builder	1
133211	Engineering Manager	1
133513	Production Manager (Mining)	1
133612	Procurement Manager	1
134111	Child Care Centre Manager	1
134212	Nursing Clinical Director	1
134299	Health and Welfare Services Managers (nec)	1
134311	School Principal	1
135112	ICT Project Manager	1
139912	Environmental Manager	1
141111	Cafe or Restaurant Manager	2
141311	Hotel or Motel Manager	2
231111	Aeroplane Pilot	1
231113	Flying Instructor	1
231114	Helicopter Pilot	1
231212	Ship's Engineer	2
231213	Ship's Master	2
231214	Ship's Officer	2
231215	Marine Surveyor	2
232111	Architect	1
232212	Surveyor	1
232611	Urban and Regional Planner	1
233111	Chemical Engineer	1
233112	Materials Engineer	1
233211	Civil Engineer	1
233212	Geotechnical Engineer	1
233213	Quantity Surveyor	1
233214	Structural Engineer	1
233311	Electrical Engineer	1
233411	Electronics Engineer	1
233511	Industrial Engineer	1
233512	Mechanical Engineer	1
233513	Production or Plant Engineer	1

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ANZSCO	Occupation Name (Tier 1)	Skill Level
233611	Mining Engineer (excluding Petroleum)	1
233612	Petroleum Engineer	1
233911	Aeronautical Engineer	1
233912	Agricultural Engineer	1
233913	Biomedical Engineer	1
233915	Environmental Engineer	1
233916	Naval Architect	1
234111	Agricultural Consultant	1
234114	Agricultural Research Scientist	1
234115	Agronomist	1
234116	Aquaculture Or Fisheries Scientist	1
234211	Chemist	1
234411	Geologist	1
234412	Geophysicist	1
234413	Hydrogeologist	1
234611	Medical Laboratory Scientist	1
234711	Veterinarian	1
234912	Metallurgist	1
234915	Exercise Physiologist	1
241111	Early Childhood (Pre-primary School) Teacher	1
241213	Primary School Teacher	1
241311	Middle School Teacher	1
241411	Secondary School Teacher	1
241511	Special Needs Teacher	1
241512	Teacher of the Hearing Impaired	1
241513	Teacher of the Sight Impaired	1
241599	Special Education Teachers nec	1
242211	Vocational Education Teacher/ Polytechnic Teacher	1
249311	Teacher of English to Speakers of Other Languages (TESOL)	1
251211	Medical Diagnostic Radiographer	1
251212	Medical Radiation Therapist	1
251213	Nuclear Medicine Technologist	1
251214	Sonographer	1
251312	Occupational Health and Safety Adviser	1
251411	Optometrist	1
251412	Orthoptist	1
251511	Hospital Pharmacist	1
251912	Orthotist or Prosthetist	1
252311	Dental Specialist	1
252312	Dentist	1
252411	Occupational Therapist	1
252511	Physiotherapist	1

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ANZSCO	Occupation Name (Tier 1)	Skill Level
252611	Podiatrist	1
252711	Audiologist	1
252712	Speech Pathologist / Speech Language Therapist	1
253111	General Practitioner	1
253112	Resident Medical Officer	1
253211	Anaesthetist	1
253311	Specialist Physician (General Medicine)	1
253312	Cardiologist	1
253313	Clinical Haematologist	1
253314	Medical Oncologist	1
253315	Endocrinologist	1
253316	Gastroenterologist	1
253317	Intensive Care Specialist	1
253318	Neurologist	1
253321	Paediatrician	1
253322	Renal Medicine Specialist	1
253323	Rheumatologist	1
253324	Thoracic Medicine Specialist	1
253399	Specialist Physicians (nec)	1
253411	Psychiatrist	1
253511	Surgeon (General)	1
253512	Cardiothoracic Surgeon	1
253513	Neurosurgeon	1
253514	Orthopaedic Surgeon	1
253515	Otorhinolaryngologist	1
253516	Paediatric Surgeon	1
253517	Plastic and Reconstructive Surgeon	1
253518	Urologist	1
253521	Vascular Surgeon	1
253911	Dermatologist	1
253912	Emergency Medicine Specialist	1
253913	Obstetrician & Gynaecologist	1
253914	Ophthalmologist	1
253915	Pathologist	1
253917	Diagnostic and Interventional Radiologist	1
253918	Radiation Oncologist	1
253999	Medical Practitioners (nec)	1
254111	Midwife	1
254211	Nurse Educator	1
254311	Nurse Manager	1
254411	Nurse Practitioner	1
254412	Registered Nurse (Aged Care)	1

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ANZSCO	Occupation Name (Tier 1)	Skill Level
254413	Registered Nurse (Child and Family Health)	1
254414	Registered Nurse (Community Health)	1
254415	Registered Nurse (Critical Care and Emergency)	1
254416	Registered Nurse (Developmental Disability)	1
254417	Registered Nurse (Disability and Rehabilitation)	1
254418	Registered Nurse (Medical)	1
254421	Registered Nurse (Medical Practice)	1
254422	Registered Nurse (Mental Health)	1
254423	Registered Nurse (Perioperative)	1
254424	Registered Nurse (Surgical)	1
254425	Registered Nurse (Paediatrics)	1
254499	Registered Nurse (nec)	1
261111	ICT Business Analyst	1
261315	Cyber Security Engineer	1
261317	Penetration Tester	1
262113	Systems Administrator	1
262114	Cyber Governance Risk And Compliance Specialist	1
262115	Cyber Security Advice And Assessment Specialist	1
262116	Cyber Security Analyst	1
262117	Cyber Security Architect	1
262118	Cyber Security Operations Coordinator	1
263111	Computer Network and Systems Engineer	1
263212	ICT Support Engineer	1
263213	ICT Systems Test Engineer	1
263311	Telecommunications Engineer	1
263312	Telecommunications Network Engineer	1
272112	Drug and Alcohol Counsellor	1
272114	Rehabilitation Counsellor	1
272311	Clinical Psychologist	1
272312	Educational Psychologist	1
272399	Psychologists (nec)	1
272412	Interpreter	1
272413	Translator	1
272511	Social Worker	1
272613	Welfare Worker	1
311112 (311111)	Agricultural and Agritech Technician	2
311211	Anaesthetic Technician	2
311212	Cardiac Technician	2
311213	Medical Laboratory Technician	2
311214	Operating Theatre Technician	3
311216	Pathology Collector	3

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ANZSCO	Occupation Name (Tier 1)	Skill Level
311299	Medical Technicians, nec	2
312111	Architectural Draftperson	2
312112	Building Associate (Building Construction Supervisor)	2
312113	Building Inspector	2
312114	Construction Estimator	2
312116	Surveying or Spacial Science Technician	2
312199	Architectural, Building and Surveying Technicians (nec)	2
312211	Civil Engineering Draftsperson	2
312212	Civil Engineering Technician	2
312311	Electrical Engineering Draftsperson	2
312312	Electrical Engineering Technician	2
312411	Electronic Engineering Draftsperson	2
312412	Electronic Engineering Technician	2
312512	Mechanical Engineering Technician	2
312911	Maintenance Planner	2
312912	Metallurgical or Materials Technician	2
312913	Mine Deputy	2
312999	Building and Engineering Technicians (nec)	2
321111	Automotive Electrician	3
321211	Motor Mechanic (General)	3
321212	Diesel Motor Mechanic	3
321214	Small Engine Mechanic	3
322211	Sheetmetal Trades Worker	3
322311	Metal Fabricator	3
322312	Pressure Welder	3
322313	Welder (First Class)	3
323111	Aircraft Maintenance Engineer (Avionics)	3
323112	Aircraft Maintenance Engineer (Mechanical)	3
323113	Aircraft Maintenance Engineer (Structures)	3
323211	Fitter (General)	3
323212	Fitter and Turner	3
323213	Fitter-Welder	3
323214	Metal Machinist (First Class)	3
323299	Metal Fitters and Machinists (nec)	3
324111	Panelbeater	3
324311	Vehicle Painter	3
331111	Bricklayer	3
331112	Stonemason	3
331211	Carpenter and Joiner	3
331212	Carpenter	3
331213	Joiner	3
332111	Floor Finisher	3

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ANZSCO	Occupation Name (Tier 1)	Skill Level
332211	Painting Trades Worker	3
333111	Glazier	3
333211	Plasterer	3
333212	Solid Plasterer	3
333311	Roof Tiler	3
333411	Wall and Floor Tiler	3
334112	Airconditioning and Mechanical Services Plumber	3
334113	Drainer	3
334114	Gasfitter	3
334115	Roof Plumber	3
334116	Plumber (General)	3
334117	Fire Protection Plumber	3
341111	Electrician (General)	3
341112	Electrician (Special Class)	3
342111	Airconditioning and Refrigeration Mechanic	3
342211	Electrical Linesworker/ Electrical Line Mechanic	3
342212	Technical Cable Jointer	3
342314	Electronic Instrument Trades Worker (General)	3
342315	Electronic Instrument Trades Worker (Special Class)	3
342411	Cabler (Data and Telecommunications)	3
342412	Telecommunications Cable Jointer	3
342413	Telecommunications Linesworker	3
342414	Telecommunications Technician	3
351112	Pastrycook	3
351311	Chef	2
351411	Cook	3
361311	Veterinary Nurse	3
362511	Arborist	2
363312	Wool Classer	3
394112 (394111)	Cabinetmaker	3
399212	Gas or Petroleum Operator	3
399513	Light Technician	3
411111	Ambulance Officer	2
411112	Intensive Care Ambulance Paramedic	1
411211	Dental Hygienist	1
411213	Dental Technician	2
411214	Dental Therapist	1
411411	Enrolled Nurse	2
411711	Community Worker	2
411712	Disabilities Services Officer	2
411713	Family Support Worker	2

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ANZSCO	Occupation Name (Tier 1)	Skill Level
411715	Residential Care Officer	2
411716	Youth Worker	2
421111	Child Care Group Leader	2
421111	Child Care Worker	3
421114	Out of School Hours Care Worker	3
423111	Aged or Disabled Carer	4
423313	Personal Care Assistant	4
423411	Child Or Youth Residential Care Assistant	3
423413	Refuge Worker	3
431411	Hotel Service Manager	2
441211	Emergency Service Worker	3
441212	Fire Fighter	3
442111	Prison Officer	4
512211	Health Practice Manager	2
599915	Clinical Coder	3
712211	Driller	4
721215	Grader Operator	4
721913	Paving Plant Operator	4
733111	Truck Driver (General)	4
070499	Decarbonisation Advisor	1
070499	Directional Driller	3
070499	Electrolyser Technician	2
070499	Fuel Cell Technician	2
070499	Hydrogen Process Operators	3
070499	Process Technician	4
070499	Wind blade technician	2

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Attachment B - Table 1B: Western Australia DAMA Occupations List – Regional Western Australia

Table 2: Regional Western Australia – Eligible Occupations

ANZSCO	Occupation Name (Tier 2)	Skill Level
121312	Beef Cattle Farmer	1
121313	Dairy Cattle Farmer	1
121322	Sheep Farmer	1
121323 (121317)	Mixed Livestock Farmer (Mixed Cattle and Sheep Farmer)	1
121512 (121214)	Grain, Oilseed, Pulse or Pasture Grower/Field Crop Grower	1
121612	Fruit Grower	1
121616	Vegetable Grower	1
121617 (121215)	Wine Grape Grower	1
121711	Broadacre Crop and Livestock Farmer	1
133111	Construction Project Manager	1
133112	Project Builder	1
133211	Engineering Manager	1
133513	Production Manager (Mining)	1
133612	Procurement Manager	1
134111	Child Care Centre Manager	1
134212	Nursing Clinical Director	1
134299	Health and Welfare Services Managers (nec)	1
134311	School Principal	1
135112	ICT Project Manager	1
139912	Environmental Manager	1
141111	Cafe or Restaurant Manager	2
141311	Hotel or Motel Manager	2
231111	Aeroplane Pilot	1
231113	Flying Instructor	1
231114	Helicopter Pilot	1
231212	Ship's Engineer	2
231213	Ship's Master	2
231214	Ship's Officer	2
231215	Marine Surveyor	2
232111	Architect	1
232212	Surveyor	1
232611	Urban and Regional Planner	1
233111	Chemical Engineer	1
233112	Materials Engineer	1
233211	Civil Engineer	1
233212	Geotechnical Engineer	1

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ANZSCO	Occupation Name (Tier 2)	Skill Level
233213	Quantity Surveyor	1
233214	Structural Engineer	1
233311	Electrical Engineer	1
233411	Electronics Engineer	1
233511	Industrial Engineer	1
233512	Mechanical Engineer	1
233513	Production or Plant Engineer	1
233611	Mining Engineer (excluding Petroleum)	1
233612	Petroleum Engineer	1
233911	Aeronautical Engineer	1
233912	Agricultural Engineer	1
233913	Biomedical Engineer	1
233914	Engineering Technologist	1
233915	Environmental Engineer	1
233916	Naval Architect/Marine Designer	1
234111	Agricultural Consultant	1
234114	Agricultural Research Scientist	1
234115	Agronomist	1
234116	Aquaculture Or Fisheries Scientist	1
234211	Chemist	1
234411	Geologist	1
234412	Geophysicist	1
234413	Hydrogeologist	1
234611	Medical Laboratory Scientist	1
234711	Veterinarian	1
234912	Metallurgist	1
234915	Exercise Physiologist	1
241111	Early Childhood (Pre-primary School) Teacher	1
241213	Primary School Teacher	1
241311	Middle School Teacher/Intermediate School Teacher	1
241411	Secondary School Teacher	1
241511	Special Needs Teacher	1
241512	Teacher of the Hearing Impaired	1
241513	Teacher of the Sight Impaired	1
241599	Special Education Teachers (nec)	1
242211	Vocational Education Teacher	1
249311	Teacher of English to Speakers of Other Languages (TESOL)	1
251111	Dietitian	1
251211	Medical Diagnostic Radiographer	1
251212	Medical Radiation Therapist	1
251213	Nuclear Medicine Technologist	1
251214	Sonographer	1

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ANZSCO	Occupation Name (Tier 2)	Skill Level
251312	Occupational Health and Safety Adviser	1
251411	Optometrist	1
251412	Orthoptist	1
251511	Hospital Pharmacist	1
251912	Orthotist or Prosthetist	1
252311	Dental Specialist	1
252312	Dentist	1
252411	Occupational Therapist	1
252511	Physiotherapist	1
252611	Podiatrist	1
252711	Audiologist	1
252712	Speech Pathologist	1
253111	General Practitioner	1
253112	Resident Medical Officer	1
253211	Anaesthetist	1
253311	Specialist Physician (General Medicine)	1
253312	Cardiologist	1
253313	Clinical Haematologist	1
253314	Medical Oncologist	1
253315	Endocrinologist	1
253316	Gastroenterologist	1
253317	Intensive Care Specialist	1
253318	Neurologist	1
253321	Paediatrician	1
253322	Renal Medicine Specialist	1
253323	Rheumatologist	1
253324	Thoracic Medicine Specialist	1
253399	Specialist Physicians nec	1
253411	Psychiatrist	1
253511	Surgeon (General)	1
253512	Cardiothoracic Surgeon	1
253513	Neurosurgeon	1
253514	Orthopaedic Surgeon	1
253515	Otorhinolaryngologist	1
253516	Paediatric Surgeon	1
253517	Plastic and Reconstructive Surgeon	1
253518	Urologist	1
253521	Vascular Surgeon	1
253911	Dermatologist	1
253912	Emergency Medicine Specialist	1
253913	Obstetrician & Gynaecologist	1
253914	Ophthalmologist	1

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ANZSCO	Occupation Name (Tier 2)	Skill Level
253915	Pathologist	1
253917	Diagnostic and Interventional Radiologist	1
253918	Radiation Oncologist	1
253999	Medical Practitioners nec	1
254111	Midwife	1
254211	Nurse Educator	1
254311	Nurse Manager	1
254411	Nurse Practitioner	1
254412	Registered Nurse (Aged Care)	1
254413	Registered Nurse (Child and Family Health)	1
254414	Registered Nurse (Community Health)	1
254415	Registered Nurse (Critical Care and Emergency)	1
254416	Registered Nurse (Developmental Disability)	1
254417	Registered Nurse (Disability and Rehabilitation)	1
254418	Registered Nurse (Medical)	1
254421	Registered Nurse (Medical Practice)	1
254422	Registered Nurse (Mental Health)	1
254423	Registered Nurse (Perioperative)	1
254424	Registered Nurse (Surgical)	1
254425	Registered Nurse (Paediatrics)	1
254499	Registered Nurse nec	1
261111	ICT Business Analyst	1
261315	Cyber Security Engineer	1
261317	Penetration Tester	1
262113	Systems Administrator	1
262114	Cyber Governance Risk And Compliance Specialist	1
262115	Cyber Security Advice And Assessment Specialist	1
262116	Cyber Security Analyst	1
262117	Cyber Security Architect	1
262118	Cyber Security Operations Coordinator	1
263111	Computer Network and Systems Engineer	1
263212	ICT Support Engineer	1
263213	ICT Systems Test Engineer	1
263311	Telecommunications Engineer	1
263312	Telecommunications Network Engineer	1
272112	Drug and Alcohol Counsellor	1
272114	Rehabilitation Counsellor	1
272311	Clinical Psychologist	1
272312	Educational Psychologist	1
272399	Psychologists nec	1
272412	Interpreter	1
272413	Translator	1

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ANZSCO	Occupation Name (Tier 2)	Skill Level
272511	Social Worker	1
272613	Welfare Worker	1
311112	Agricultural Technician	2
311211	Anaesthetic Technician	2
311212	Cardiac Technician	2
311213	Medical Laboratory Technician	2
311214	Operating Theatre Technician	3
311216	Pathology Collector / Phlebotomist	3
311299	Medical Technicians (nec)	2
311412	Earth Science Technician	2
312111	Architectural Draftsperson	2
312112	Building Associate	2
312113	Building Inspector	2
312114	Construction Estimator	2
312116	Surveying or Spatial Science Technician	2
312199	Architectural, Building and Surveying Technicians nec	2
312211	Civil Engineering Draftsperson	2
312212	Civil Engineering Technician	2
312311	Electrical Engineering Draftsperson	2
312312	Electrical Engineering Technician	2
312411	Electronic Engineering Draftsperson	2
312412	Electronic Engineering Technician	2
312512	Mechanical Engineering Technician	2
312911	Maintenance Planner	2
312912	Metallurgical or Materials Technician	2
312913	Mine Deputy	2
312999	Building and Engineering Technicians nec	2
313212	Telecommunications Field Engineer	2
313213	Telecommunications Network Planner	2
313214	Telecommunications Technical Officer or Technologist	2
321111	Automotive Electrician	3
321211	Motor Mechanic (General)	3
321212	Diesel Motor Mechanic	3
321214	Small Engine Mechanic	3
322211	Sheetmetal Trades Worker	3
322311	Metal Fabricator	3
322312	Pressure Welder	3
322313	Welder (First Class)	3
323111	Aircraft Maintenance Engineer (Avionics)	3
323112	Aircraft Maintenance Engineer (Mechanical)	3
323113	Aircraft Maintenance Engineer (Structures)	3
323211	Fitter (General)	3

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ANZSCO	Occupation Name (Tier 2)	Skill Level
323212	Fitter and Turner	3
323213	Fitter-Welder	3
323214	Metal Machinist (First Class)	3
323299	Metal Fitters and Machinists nec	3
324111	Panelbeater	3
324311	Vehicle Painter	3
331111	Bricklayer	3
331112	Stonemason	3
331211	Carpenter and Joiner	3
331212	Carpenter	3
331213	Joiner	3
332111	Floor Finisher	3
332211	Painting Trades Worker	3
333111	Glazier	3
333211	Plasterer	3
333212	Solid Plasterer	3
333311	Roof Tiler	3
333411	Wall and Floor Tiler	3
334112	Airconditioning and Mechanical Services Plumber	3
334113	Drainer	3
334114	Gasfitter	3
334115	Roof Plumber	3
334116	Plumber (General)	3
334117	Fire Protection Plumber	3
341111	Electrician (General)	3
341112	Electrician (Special Class)	3
342111	Airconditioning and Refrigeration Mechanic	3
342211	Electrical Linesworker	3
342212	Technical Cable Jointer	3
342314	Electronic Instrument Trades Worker (General)	3
342315	Electronic Instrument Trades Worker (Special Class)	3
342411	Cabler (Data and Telecommunications)	3
342412	Telecommunications Cable Jointer	3
342413	Telecommunications Linesworker/ Telecommunications Line Mechanic	3
342414	Telecommunications Technician	3
351112	Pastrycook	3
351311	Chef	2
351411	Cook	3
361311	Veterinary Nurse	3
362511	Arborist	2
363114	Horticultural Supervisor or Specialist	3
363115	Senior Broadacre Crop and Livestock Farm Worker	3

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ANZSCO	Occupation Name (Tier 2)	Skill Level
363116	Senior Broadacre Crop Farm Worker	3
363211	Senior Beef Cattle Station Worker	3
363311	Shearer	3
363312	Wool Classer	3
394112 (394111)	Cabinetmaker	3
399211	Chemical Plant Operator	3
399212	Gas or Petroleum Operator	3
399513	Light Technician	3
399918	Fire Protection Equipment Technician	3
411111	Ambulance Officer	2
411112	Intensive Care Ambulance Paramedic	1
411211	Dental Hygienist	1
411213	Dental Technician	2
411214	Dental Therapist	1
411411	Enrolled Nurse	2
411711	Community Worker	2
411712	Disabilities Services Officer	2
411713	Family Support Worker	2
411714	Parole or Probation Officer	2
411715	Residential Care Officer	2
411716	Youth Worker	2
421111	Child Care Group Leader	2
421111	Child Care Worker	3
421114	Out of School Hours Care Worker	3
422115	Preschool Aide	4
422116	Teachers' Aide	4
423111	Aged or Disabled Carer	4
423313	Personal Care Assistant	4
423411	Child Or Youth Residential Care Assistant	3
423413	Refuge Worker	3
431411	Hotel Service Manager	2
441211	Emergency Service Worker	3
441212	Fire Fighter	3
442111	Prison Officer	4
512211	Health Practice Manager	2
599915	Clinical Coder	3
712211	Driller	4
712914	Concrete Batching Plant Operator	4
712921	Waste Water or Water Plant Operator	4
712999	Stationary Plant Operators (nec)	4
721111	Agricultural and Horticultural Mobile Plant Operator	4

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ANZSCO	Occupation Name (Tier 2)	Skill Level
721211	Earthmoving Plant Operator (General)	4
721212	Backhoe Operator	4
721214	Excavator Operator	4
721215	Grader Operator	4
721216	Loader Operator	4
721913	Paving Plant Operator	4
721999	Mobile Plant Operator (nec)	4
733111	Truck Driver (General)	4
821311	Fencer	4
821712	Scaffolder	4
821713	Steel Fixer	4
842214	Grain, Oilseed, Pulse and Pasture Farm Worker	4
842222	Vineyard Worker	4
842311	Beef Cattle Farm Worker	4
842313	Dairy Cattle Farm Worker	4
070499	Civil Construction Supervisor	3
070499	Decarbonisation Advisor	1
070499	Directional Driller	3
070499	Electrolyser Technician	2
070499	Fuel Cell Technician	2
070499	Hydrogen Process Operators	3
070499	Process Technician	4
070499	Wind blade technician	2



Australian Government
Department of Home Affairs

DESIGNATED AREA MIGRATION
AGREEMENT

Between

Commonwealth of Australia as represented by the
Department of Home Affairs
(the Commonwealth)

and

The Goldfields Region, Western Australia as represented by
The City of Kalgoorlie-Boulder Council
(the Designated Area Representative)

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Parties

The Commonwealth of Australia as represented by the Department of Home Affairs (the “Commonwealth”). The Commonwealth’s particulars are set out in **Item 1 of Schedule 1**.

AND

The City of Kalgoorlie-Boulder (the Designated Area Representative). The Designated Area Representative’s particulars are set out in **Item 2 of Schedule 1**.

Background

- A. This Agreement reflects the Commonwealth’s intention to work with the Designated Area Representative to assist Australian businesses operating in the Designated Area to access workers from overseas to supplement the local labour force where acute skills and labour shortages exist.
- B. This Agreement sets out the process by which the Designated Area Representative and the Commonwealth will co-operate to facilitate Third Parties to enter into Labour Agreements for the purposes of accessing skilled and semi-skilled overseas workers in the Designated Area.
- C. Nothing in this Agreement affects each party’s obligations under Law.

1. Definitions

In this Agreement:

Address means a party’s address set out in **Item 1 and Item 2 of Schedule 1**.

Adverse Information has the same meaning as in the Migration Regulations.

Agreement or Designated Area Migration Agreement means this Agreement, its schedules and attachments and any documents incorporated by reference in this Agreement.

Annual Turnover means all ordinary gross income earned in the ordinary course of business for the income year.

ANZSCO has the same meaning as in the Migration Regulations.

Australian where the context so admits, means an Australian citizen (whether born in Australia or elsewhere) or a non-citizen who, being usually resident in Australia, is the holder of a permanent visa granted under the Migration Act.

Business Address means the physical or postal address for a party, as set out in **Item 1 and Item 2 of Schedule 1**.

Business Day means a day that is not a Saturday, Sunday, or public holiday in the Australian Capital Territory or Western Australia.

Cease Date means the cease date specified in **Item 4** of **Schedule 1**.

Concessions means any variations to the requirements prescribed in the Migration Legislation including in relation to the occupation, skills, qualifications, employment background, level of English language proficiency and the Temporary Skilled Migration Income Threshold (TSMIT) required for the nomination and grant of a visa in relation to Overseas Workers in the Designated Area, as specified in **Schedules 4, 5, 6, 7 and 8** of this Agreement (or as otherwise specified by the Commonwealth). These Concessions may be included in a Labour Agreement associated with this Agreement.

Confidential Information means any information, documents and data that is:

- (a) reasonably designated in any way as confidential; or
 - (b) which the recipient knows or ought to know is confidential,
- that is provided by the Commonwealth or a Third Party to the Designated Area Representative.

Contact Officer means the officers referred to in **Item 1** and **Item 2** of **Schedule 1**.

Department means the Department of Home Affairs.

Departmental Representative means an officer of the Department appointed by the Department to manage the Department's interests under this Agreement.

Designated Area means the area defined in **Item 3** of **Schedule 1**.

Designated Area Representative or DAR means the party identified in **Item 2** of **Schedule 1**, and includes a reference to any replacement body.

Effective Date means the effective date specified in **Item 4** of **Schedule 1**.

Email Address means a party's email address set out in **Item 1** or **Item 2** of **Schedule 1** of this Agreement.

ENS visa means the Employer Nomination Scheme (subclass 186) visa.

Labour Agreement means a labour agreement entered into by the Minister and a Third Party under the Migration Legislation in relation to one or more Occupations and relevant Concessions in the Designated Area and may include requirements specified in **Schedules 4, 5, 6, 7 and 8** of this Agreement.

Law means any applicable statute, regulation, by-law, ordinance or subordinate legislation in force from time to time in Australia, whether made by a State, Territory, the Commonwealth, or a local government, and includes the common law as applicable from time to time, including the Migration Legislation.

Maximum Numbers mean the maximum numbers of approved nominations for an Occupation in the Designated Area as specified in **Schedule 3**. This is also referred to as a 'nomination ceiling'.

Migration Act means the *Migration Act 1958*.

Migration Legislation means the Migration Act and/or the Migration Regulations and / or any instruments made under the Act or Regulations.

Migration Regulations means the *Migration Regulations 1994*.

Minister means a reference to a "Minister" appointed to administer the Department and includes where relevant, delegates performing relevant functions as the Minister under the Migration Legislation.

National Employment Standards has the same meaning as in the *Fair Work Act 2009*.

Objectives means the objectives of this Agreement as outlined in **Schedule 2**.

Occupations means those occupations prescribed in **Schedule 3**.

Overseas Worker means a person nominated by, or proposed to be nominated by, a Third Party under a Labour Agreement.

Support Services means the services stipulated in **Schedule 10**.

Third Party means a person, company, partnership or an unincorporated association which has:

- (a) applied to be endorsed and may be, or will be, or has been, endorsed by the Designated Area Representative under this Agreement; or
- (b) who is a party to a Labour Agreement (other than the Minister).

TSMIT means the Temporary Skilled Migration Income Threshold specified in an instrument made under the Migration Regulations.

TSS visa means the Temporary Skill Shortage (subclass 482) visa.

2. Interpretation

In this Agreement, unless the context indicates a contrary intention:

(documents) a reference to this Agreement or another document includes any document which varies, supplements, replaces, assigns or novates this Agreement or that other document.

(references) a reference to a party, clause, paragraph, schedule or annexure is a reference to a party, clause, paragraph, schedule or annexure to or of this Agreement.

(headings) clause headings and the table of contents are inserted for convenience only and do not affect interpretation of this Agreement.

(person) a reference to a person includes a natural person, corporation, statutory corporation, body politic, partnership, the Crown and any other organisation or legal entity and their personal representatives, successors, substitutes (including persons taking by novation) and permitted assigns.

(party) a reference to a party to a document includes that party's personal representatives, executors, administrators, successors, substitutes (including persons taking by novation) and permitted assigns.

(requirements) a requirement to do anything includes a requirement to cause that thing to be done, and a requirement not to do anything includes a requirement to prevent that thing being done.

(including) including and includes are not words of limitation, and a list of examples is not limited to those items or to items of a similar kind.

(corresponding meanings) a word that is derived from a defined word has a corresponding meaning.

(singular) the singular includes the plural and vice-versa.

(gender) words importing one gender include all other genders.

(parts) a reference to one or more things includes each part and all parts of that thing or group of things but nothing in this clause implies that part performance of an obligation constitutes performance of that obligation.

(rules of construction) neither this Agreement nor any part of it is to be construed against a party on the basis that the party or its lawyers were responsible for its drafting.

(legislation) a reference to any legislation or provision of legislation includes all amendments, consolidations or replacements and all regulations or instruments issued under it.

(time and date) a reference to a time or date in connection with the performance of an obligation by a party is a reference to the time and date in Australian Capital Territory, Australia, even if the obligation is performed elsewhere.

(writing) a reference to a notice, consent, request, approval or other communication under this Agreement or an agreement between the parties means a written notice, request, consent, approval or agreement.

(replacement bodies) a reference to a body (including an institute, association or any government, local government, statutory, administrative, fiscal or judicial body, department, commission, authority, tribunal, public authority or other person who exercises a relevant authority) which ceases to exist or whose powers or functions are

transferred to another body is a reference to the body which replaces it or which substantially succeeds to its power or functions.

(day) a reference to a day is a reference to a calendar day.

(month) a reference to a month is a reference to a calendar month.

3. Period

3.1 This Agreement commences on the Effective Date.

3.2 Unless terminated earlier in accordance with clause 20, the period of this Agreement ends on the Cease Date.

4. Purpose

4.1 The purpose of this Agreement is to:

- (a) achieve the Objectives;
- (b) outline the roles and responsibilities of the Designated Area Representative and the Commonwealth in achieving the Objectives; and
- (c) set out the arrangements for the Designated Area Representative to assist the Commonwealth in administrative arrangements for processing applications for Labour Agreements and visas in the Designated Area, and monitoring of, and reporting on labour market conditions in the Designated Area.

5. Acknowledgements

5.1 The parties acknowledge that:

- (a) the Commonwealth may, by notice in writing, at any time:
 - (i) amend or update the Objectives, Occupations, Maximum Numbers, Concessions and Support Services for the purposes of this Agreement; or
 - (ii) amend, update or replace any other content in **Schedules 2 to 10** of this Agreement;
- (b) this Agreement is not a Labour Agreement;
- (c) this Agreement does not have the effect of making the Designated Area Representative an approved sponsor (within the meaning of the Migration Legislation); and

(d) nothing in this Agreement fetters or detracts from the discretions, functions or powers of the Minister and the Commonwealth under Law, including in determining:

- (i) whether to enter into, suspend or terminate a Labour Agreement with a Third Party;
- (ii) the content of a Labour Agreement; or
- (iii) whether to grant or cancel any visa.

6. Responsibilities of the Designated Area Representative

Collaboration

6.1 The Designated Area Representative will work collaboratively with the Commonwealth to achieve the Objectives.

Managing the endorsement process

6.2 The Designated Area Representative is responsible for endorsing a Third Party seeking access to a Labour Agreement associated with this Agreement.

6.3 In endorsing Third Parties, the Designated Area Representative will ensure that risks are appropriately managed, including ensuring:

- (a) it treats all Third Parties impartially;
- (b) it only endorses Third Parties seeking to enter into a Labour Agreement for the Occupations and Concessions;
- (c) that Third Parties are aware of relevant requirements and obligations under the Migration Legislation;
- (d) it only endorses Third Parties that meet Australian workplace and migration Laws;
- (e) the Third Parties it endorses are aware of and capable of meeting migration requirements, including providing reports as necessary to meet auditing and Departmental requirements; and
- (f) Third Parties seeking to sponsor Overseas Workers for visas with Concessions will only be endorsed by the Designated Area Representative where the Designated Area Representative is satisfied that the Concessions will not undermine the ability of the Overseas Worker to support themselves financially, or lead to exploitation of the Overseas Worker.

6.4 The Designated Area Representative may only endorse Third Parties for a Labour Agreement:

- (a) for the Occupations and with the Concessions; and

- (b) up to the Maximum Number.
- 6.5 If the Designated Area Representative endorses a Third Party to enter into a Labour Agreement then the Designated Area Representative must submit to the Commonwealth a letter of endorsement, in the form specified in **Schedule 9**, or such other form as is specified by the Commonwealth.
- 6.6 The endorsement provided by the Designated Area Representative must:
- (a) specify that the letter of endorsement is submitted under this Agreement;
 - (b) detail the Third Party's name, including any business name, business and postal address or email, and Australian Business Number;
 - (c) attest that the Third Party has genuinely sought to recruit, within the period specified by the Commonwealth, Australians to the requested Occupations in the Designated Area;
 - (d) attest that the Designated Area Representative has monitored the labour market;
 - (e) attest that the number of prospective Overseas Workers being requested by the Third Party to be engaged in the Designated Area in the Occupations and with the proposed Concessions (if any), are reasonable with regard to the current labour market conditions in those locations;
 - (f) attest that endorsement supports the Objectives;
 - (g) attach the application and any supporting information provided to the Designated Area Representative by the Third Party in seeking endorsement; and
 - (h) be signed on behalf of the Designated Area Representative by a person who is authorised to represent and bind the Designated Area Representative.
- 6.7 The Designated Area Representative must not endorse a Third Party if:
- (a) it reasonably believes the number of prospective Overseas Workers being requested by the Third Party to be engaged in certain locations and Occupations is not appropriate with regard to the current labour market conditions in those locations; or
 - (b) the Third Party has not genuinely sought to recruit, within the period specified by the Commonwealth, Australians to the requested Occupations in the Designated Area; or
 - (c) any Adverse Information is known, or should reasonably be known about the Third Party.
- 6.8 The Designated Area Representative is responsible for putting in place any measures it considers necessary to enable compliance by the Designated Area Representative with its obligations under clauses 6.2 to 6.7, and the monitoring, support, reporting and

evaluation activities referred to in clauses 6.10 to 6.16, including, if necessary, entering into any binding undertakings or agreements with Third Parties.

- 6.9 The Designated Area Representative will provide reasonable assistance to the Commonwealth to support its assessment of applications for nominations or visa applications connected with a Labour Agreement as specified in **Schedule 10** of this Agreement or as otherwise agreed between the parties.

Monitoring

- 6.10 The Designated Area Representative must take all reasonable steps to:
- (a) monitor the labour market and the impact of government initiatives designed to assist unemployed, retrenched or disadvantaged Australians;
 - (b) ensure that Third Parties give first preference to Australians for a requested Occupation within the Designated Area before seeking to recruit, employ or engage Overseas Workers under a Labour Agreement associated with this Agreement; and
 - (c) identify any facts or circumstances that may be a breach of Law by a Third Party and report these to the relevant Commonwealth, State or Territory regulatory or enforcement bodies.

Supporting employers and visa holders

- 6.11 The Designated Area Representative will provide the Support Services in the Designated Area as specified in **Schedules 5 and 10** of this Agreement.

Reporting

- 6.12 The Designated Area Representative agrees to attend management meetings as requested by the Commonwealth.
- 6.13 The management meeting may be attended in-person, via teleconference or via videoconference.
- 6.14 The Designated Area Representative agrees to report in writing on the progress of this Agreement and the current labour market in the Designated Area (including the use of Overseas Workers to supplement the local labour force):
- (a) annually on the anniversary of the Effective Date; and
 - (b) within 14 days when requested in writing by the Commonwealth.
- 6.15 Reporting should cover the matters requested by the Commonwealth.

Evaluation

- 6.16 The Designated Area Representative must provide a written evaluation to the Commonwealth within three (3) months following the first anniversary of this Agreement, and within three (3) months of each subsequent anniversary of the Agreement. The evaluation must include:
- (a) progress of the Agreement in meeting the Objectives, including the Designated Area Representative's assessment of whether there remains an ongoing labour market need for Overseas Workers in the Designated Area;
 - (b) details of any significant economic or social changes to the Designated Area that has impacted on the need for Overseas Workers to supplement the local labour force in the Designated Area;
 - (c) an assessment of changes in the employment of Australians and non-Australians in the Designated Area;
 - (d) evidence that the Designated Area Representative has been providing the Support Services during the relevant period; and
 - (e) other information as requested by the Commonwealth.

Use of reports and evaluations

- 6.17 The Designated Area Representative agrees that the Commonwealth may use, copy, reproduce, adapt, modify and communicate any reports and evaluation material provided by the Designated Area Representative under this Agreement for any purpose, and warrants that the exercise of these rights by the Commonwealth as contemplated in this clause will not infringe the intellectual property or moral rights of any person.

7. Responsibilities of the Commonwealth

Consideration of Third Party Request for a Labour Agreement

- 7.1 The Commonwealth will consider a Third Party's request to enter into a Labour Agreement on receipt of a letter of endorsement provided by the Designated Area Representative and may refer the request to the Minister for consideration.
- 7.2 If the Minister approves the Third Party's request for a Labour Agreement, the Minister may enter into a Labour Agreement with the Third Party in accordance with the Migration Legislation.
- 7.3 The Commonwealth will, subject to any confidentiality obligations in a Labour Agreement, provide the Designated Area Representative with a copy of any Labour Agreement entered into by the Minister and the Third Party.

- 7.4 If the Minister does not approve the Third Party's request to enter into a Labour Agreement, the Commonwealth will notify the Third Party and the Designated Area Representative of this decision.

Management and monitoring

- 7.5 The Commonwealth will manage the Designated Area Migration Deed of Agreement with regard to the Objectives.
- 7.6 The Commonwealth will monitor the Designated Area Representative's compliance with the terms of this Agreement.

8. Indemnity

- 8.1 The Designated Area Representative indemnifies the Commonwealth from and against any cost or liability incurred by the Commonwealth, or loss or expense incurred by the Commonwealth 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 Commonwealth, arising from a breach by the Designated Area Representative of this Agreement.
- 8.2 The right of the Commonwealth to be indemnified under this clause 8 is in addition to, and not exclusive of, any other right, power or remedy provided by law, but the Commonwealth is not entitled to be compensated in excess of the amount of the relevant cost, liability, loss, damage or expense.
- 8.3 The provisions of this clause 8 survive termination or expiration of this Agreement.

9. Dispute Resolution

- 9.1 The parties will deal with any dispute arising during the course of this Agreement as follows:
- (a) the party claiming that there is a dispute must notify the other party of the dispute;
 - (b) the parties will use reasonable endeavours to resolve the dispute by direct negotiation between the Contact Officers;
 - (c) if negotiations between the Contact Officers fail to resolve the dispute, the matter can be escalated to an appropriate level to ensure prompt resolution of the matter in a manner consistent with good administration.
- 9.2 Both parties will continue to meet their obligations under this Agreement until the dispute or issue is resolved or as otherwise notified by the Commonwealth.
- 9.3 If the dispute or issue is not resolved after the dispute resolution process in this clause 9 has been implemented, then either one of the parties may terminate this Agreement.

10. Access

10.1 The Designated Area Representative acknowledges that:

- (a) The rights of the Commonwealth under this Agreement are in addition to any relevant power, right or entitlement of the Auditor-General or the Australian Information Commissioner; and
- (b) Nothing in this Agreement reduces, limits, restricts or derogates from in any way any relevant function, power, right or entitlement of the Auditor-General or the Australian Information Commissioner.

10.2 The Designated Area Representative must allow the Commonwealth or its nominee access to the Designated Area Representative's premises, personnel, documents and other records, and all assistance reasonably requested, at all reasonable times to inspect and copy all relevant documentation and records, however stored, in the Designated Area Representative's possession or control, with respect to the Designated Area Representative's performance of its obligations under this Agreement.

10.3 The Commonwealth's rights in clause 10.2 are subject to:

- (a) the provision of reasonable prior notice to the Designated Area Representative;
- (b) compliance with the Designated Area Representative's reasonable security procedures;
- (c) each party bearing its own cost arising out of or in connection with any access, audit or inspection; and
- (d) if requested by the Designated Area Representative, entering into a deed of confidentiality relating to non-disclosure of the Designated Area Representative's confidential information in a form reasonably acceptable to the Designated Area Representative.

10.4 The Designated Area Representative must provide any relevant information as requested by the Commonwealth from time to time, within 14 days of the Commonwealth's request, with respect to the Designated Area Representative's performance of its obligations under this Agreement.

10.5 This clause 10 will survive for seven (7) years from the date of expiration or termination of this Agreement.

11. Retention of Documents

11.1 The Designated Area Representative must retain all documents relating to this Agreement for a minimum of 7 years from the expiration or termination of this Agreement.

12. Notices

- 12.1 Any notice, demand, consent or other communication given or made under this Agreement must be signed by the party giving or making it (or signed on behalf of that party by its authorised representative) except in the case of an email; and
- (a) left at, or sent by ordinary or pre-paid post to, the Business Address of the recipient; or
 - (b) sent to the Email Address of the recipient.
- 12.2 A party may change its Business Address or Email Address for the purpose of service by giving notice of that change to the other party in accordance with this clause 12.
- 12.3 Any communication will be taken to be received by the recipient:
- (a) in the case of a letter, on the third Business Day after the date of posting;
 - (b) in the case of an email, at the end of the day in which it is transmitted, providing the sender does not receive an email delivery failure notification in respect of the email.

13. Relationship Between Parties

- 13.1 Nothing in this Agreement:
- (a) constitutes a partnership between the parties; or
 - (b) except as expressly provided, makes a party an agent of another party for any purpose.
- 13.2 A party cannot in any way or for any purpose:
- (a) bind another party; or
 - (b) contract in the name of another party.
- 13.3 If a party must fulfil an obligation and that party is dependent on another party, then that other party must do each thing reasonably within its power to assist the other in the performance of that obligation.

13. Time For Doing Acts

- 13.1 If the time for doing any act or thing required to be done or a notice period specified in this Agreement expires on a day other than a Business Day, the time for doing that act or thing or the expiration of that notice period is extended until the following Business Day.
- 13.2 If any act or thing required to be done is done after 5.00pm on the specified day, it is taken to have been done on the following Business Day.

14. Further Assurances, Variation

- 14.1 Each party must promptly execute all documents and do all other things reasonably necessary or desirable to give effect to the arrangements recorded in this Agreement.
- 14.2 Unless otherwise specified in this Agreement, a provision of this Agreement can only be varied by a later written document executed by or on behalf of all parties.

15. No Assignment, Subcontracting

- 15.1 The Designated Area Representative cannot assign its rights under this Agreement without the prior written consent of the Commonwealth. The Commonwealth may impose conditions on any consent provided under this clause 15.1.
- 15.2 The Designated Area Representative must not, except with the Commonwealth's prior written approval, subcontract the whole or part of the Designated Area Representative obligations under this Agreement.
- 15.3 The Designated Area Representative must notify the Commonwealth if functions and powers relevant to this Agreement are transferred (or are to be transferred) to another government agency body (a replacement body) as a result of any administrative rearrangement or machinery of government change.

16. Legal Expenses

- 16.1 Each party must pay its own legal costs and disbursements in connection with the negotiation, preparation, execution and carrying into effect of this Agreement.

17. Entire Agreement

- 17.1 The contents of this Agreement constitute the entire agreement between the parties and supersede any prior negotiations, representations, understandings or arrangements made between the parties regarding the subject matter of this Agreement, whether orally or in writing.
- 17.2 If there is any inconsistency between the terms of this Agreement, a descending order of precedence will be accorded to:
 - (a) the terms of this Agreement excluding schedules and attachments annexed to the Agreement;
 - (b) the schedules to the Agreement;
 - (c) any attachments annexed to the Agreement; and
 - (d) any documents incorporated by reference into this Agreement,

so that the terms of the higher ranked document, to the extent of the inconsistency, will prevail.

18. Severability, Waiver

- 18.1 If any provision of this Agreement is held to be unlawful, invalid, unenforceable or in conflict with any Law, it is to be severed so that the validity and enforceability of the remaining provisions are not affected.
- 18.2 A right or remedy created by this Agreement cannot be waived except in writing signed by the party entitled to that right. Delays by a party in exercising a right or remedy does not constitute a waiver of that right or remedy, nor does a waiver (either wholly or in part) by a party of a right operate as a subsequent waiver of the same right or of any other right of that party.

19. Conflict Of Interest

- 19.1 Each party warrants that, to the best of its knowledge after making diligent inquiry, at the date of signing this Agreement no conflict of interest exists or is likely to arise under this Agreement.
- 19.2 If, during the period of this Agreement, a party becomes aware of a conflict of interest or a risk of conflict of interest arising, each party undertakes to notify the other party immediately in writing of that conflict or risk.

20. Termination

- 20.1 Either party may, in its discretion, terminate this Agreement at any time for any reason by giving 90 days' written notice to the other party.
- 20.2 The Designated Area Representative is not entitled to any compensation or payments as a result of the Commonwealth terminating this Agreement under this clause 20.

21. Pre-contractual warranty

- 21.1 The Designated Area Representative warrants that information supplied to the Commonwealth with respect to the Designated Area Representative being a fit and proper person to enter into this Agreement, and upon which the Department relied, is true and correct.

22. Confidential Information

- 22.1 The Designated Area Representative agrees to use the Confidential Information only as is legitimate and necessary for the purpose of this Agreement.
- 22.2 The Designated Area Representative agrees to secure all Confidential Information against loss and unauthorised access, use, modification or disclosure.
- 22.3 The Designated Area Representative agrees to implement security procedures to ensure that it meets its obligations under this Agreement.

- 22.4 The Designated Area Representative will not, without the prior written authorisation of the Commonwealth, disclose any Confidential Information to any person, other than its officers, employees and contractors who require access for the purpose of this Agreement, unless the disclosure is required by law.
- 22.5 An authorisation provided by the Commonwealth under clause 22.4 may include conditions on the disclosure and the Designated Area Representative must comply with any such conditions.
- 22.6 Where the Designated Area Representative is required to disclose the Confidential Information, it must:
- (a) use its best endeavours to notify the Commonwealth prior to disclosing the Confidential Information;
 - (b) provide the Commonwealth full details of the relevant legal requirement and information to be disclosed; and
 - (c) take any reasonable action requested by, and reasonably cooperate with any action taken by, the Commonwealth to challenge, prevent or limit such disclosure.
- 22.7 The Designated Area Representative agrees to notify the Commonwealth immediately if it becomes aware of a breach or possible breach of any of its obligations under applicable privacy laws.
- 22.8 The Designated Area Representative agrees to notify the Commonwealth immediately, and provide full details, if it becomes aware or reasonably suspect that:
- (a) Confidential Information has, or might have been, accessed, used, modified or disclosed in any way other than as permitted under this Agreement; or
 - (b) there has been any other breach of this Agreement.
- 22.9 The provisions of this clause 22 survive termination or expiration of this Agreement.

23. Governing Law and Jurisdiction

- 23.1 The laws applicable in the Australian Capital Territory govern this Agreement.
- 23.2 The parties submit to the non-exclusive jurisdiction of the courts of Australian Capital Territory and any courts competent to hear appeals from those courts.

24. Counterparts

- 24.1 This Agreement may consist of a number of counterparts and the counterparts taken together constitute one and the same instrument.

Schedule 1 Particulars

Item 1 Commonwealth Particulars

Name: Department of Home Affairs

Address: 6 Chan St, Belconnen ACT 2617

Telephone Number: s.22(1)(a)(ii)

Email address: s.22(1)(a)(ii)@homeaffairs.gov.au

Contact Officer: Director, Employer Sponsored Program Management Section

Item 2 Designated Area Representative Particulars

Name: The City of Kalgoorlie-Boulder

Business Address: 577 Hannan Street
KALGOORLIE WA 6430

Postal Address: PO BOX 2042
BOULDER WA 6432

Telephone Number: s.22(1)(a)(ii)

Email Address: s.22(1)(a)(ii)

Contact Officer: s.22(1)(a)(ii)

Item 3 Designated Area

The Designated Area covered by this Agreement: WA Goldfields Region comprising the City of Kalgoorlie-Boulder and adjacent shires of Menzies, Leonora and Coolgardie, as defined by the relevant postcode boundaries below;

City of Kalgoorlie-Boulder:	6430 and 6432
Shire of Menzies:	6436
Shire of Leonora:	6437 and 6438
Shire of Coolgardie:	6429 and 6442

Item 4 Commencement and period

Effective Date: The date on which this Agreement is signed by the parties, or if signed on separate days, the date of the last signing.

Cease Date: Five years from the Effective Date.

Schedule 2 Objectives of the Designated Area Migration Agreement

The objectives of the Agreement are to complement existing Australian Government initiatives to address skills and labour shortages by:

- 1) Providing the Designated Area with a flexible mechanism to address workforce shortages and support workforce planning.
- 2) Enabling employers in the Designated Area, who are unable to recruit appropriately qualified Australians, to supplement their workforce with overseas workers.
- 3) To support the expansion of the Designated Area economy through jobs growth.
- 4) Ensuring that Overseas Workers sponsored through Labour Agreements receive terms and conditions that meet applicable Australian workplace law and are no less favourable than those provided to Australian workers.
- 5) Promoting the training of Australians by employers entering into a Labour Agreement.

Schedule 3 Occupations and Maximum Numbers

Item 3.1 Maximum number of approved nominations

Year 1	500 approved nominations for TSS/ENS visas
Year 2	to be advised following annual review
Year 3	to be advised following annual review
Year 4	to be advised following annual review
Year 5	to be advised following annual review

The following occupations are approved under this Agreement.

Table 1: Occupation List

ANZSCO Code	Occupation	ANZSCO Skill Level
221111	Accountant (General)	1
134211	Medical Administrator	1
321111	Automotive Electrician	3
070499	Bar Attendant (Supervisor)	4
121312	Beef Cattle Farmer	1
331212	Carpenter	3
331211	Carpenter and Joiner	3
351311	Chef	2
233111	Chemical Engineer	1
134111	Child Care Centre Manager	1
421111	Child Care Worker	4
233211	Civil Engineer	1
411711	Community Worker	2
149212	Customer Service Manager	2
321212	Diesel Motor Mechanic	3
411712	Disabilities Services Officer	2
712211	Driller	4
821912	Driller's Assistant	5
241111	Early Childhood (Pre-Primary School) Teacher	1
311412	Earth Science Technician	2
721211	Earthmoving Plant Operator	4
233311	Electrical Engineer	1
312312	Electrical Engineers Technician	2
341111	Electrician (General)	3
341112	Electrician (Special Class)	3
253912	Emergency Medicine Specialist	1
441211	Emergency Service Worker	3
133211	Engineers Manager	1

ANZSCO Code	Occupation	ANZSCO Skill Level
233914	Engineers Technologist	1
323211	Fitter (General)	3
323212	Fitter and Turner	3
323213	Fitter-Welder	3
234411	Geologist	1
234412	Geophysicist	1
233212	Geotechnical Engineer	1
141311	Hotel or Motel Manager	2
223111	Human Resource Adviser	1
721216	Loader Operator	4
221112	Management Accountant	1
233512	Mechanical Engineer	1
312512	Mechanical Engineers Technician	2
253999	Medical Practitioners nec	1
322311	Metal Fabricator	3
323214	Metal Machinist (First Class)	3
312912	Metallurgical or Materials Technician	2
233611	Mining Engineer (excluding Petroleum)	1
721999	Mobile Plant Operator nec	4
321211	Motor Mechanic (General)	3
251912	Orthotist or Prosthetist	1
252511	Physiotherapist	1
233513	Production or Plant Engineer	1
313211	Radiocommunications Technician	2
223112	Recruitment Consultant	1
142111	Retail Manager (General)	2
251513	Retail Pharmacist	1
821712	Scaffolder	4
272511	Social Worker	1
251214	Sonographer	1
253399	Specialist Physicians nec	1
452321	Sports Development Officer	3
233214	Structural Engineer	1
253511	Surgeon (General)	1
263311	Telecommunications Engineer	1
313212	Telecommunications Field Engineer	2
263312	Telecommunications Network Engineer	1
313213	Telecommunications Network Planner	2
313214	Telecommunications Technical Officer or Technologist	2
733111	Truck Driver (General)	4

ANZSCO Code	Occupation	ANZSCO Skill Level
070499	Waiter (Supervisor)	4
322313	Welder (First Class)	3
272613	Welfare Worker	1
411716	Youth Worker	2

Item 3.2 Caveats not to apply

None of the matters specified in an instrument made under sub regulation 2.72(9) of the Migration Regulations, for the purpose of determining whether an occupation applies to a nominee, (called 'caveats' in Departmental policy instructions) applies to any occupation specified in this Agreement.

Schedule 4 Occupations not in ANZSCO

The parties agree to the inclusion of the following occupations, not listed in ANZSCO, in this Agreement. For the purposes of nomination application and assessment, the tasks and relevant 6-digit codes for these occupations are outlined below:

Occupation: Bar Attendant (Supervisor) (Equivalent to ANZSCO Skill Level 4)

6-digit Code: 070499

Tasks:

- Supervising and training food and beverage attendants of a lower grade for a bar/licenced venue
- taking reservations, greeting and seating guests
- report to manager on duty or equivalent senior management or venue owner, assist in rostering of staff
- assist manager on duty or equivalent management or venue owner with end of shifts (afternoon or night) reconciliation of transactions
- receipt and dispensing of all monies
- banking of cash and ensure the till is adequate for change
- coordinate and manage stock take
- preparing, serving and selling cocktails, mixed drinks, bottled, canned and other alcoholic and non-alcoholic beverages to patrons in a bar in a licensed establishment
- cleaning and maintaining bar service areas
- collecting payment for sales and operating cash registers
- promoting services and products
- washing glassware and arranging bottles and glasses
- tapping kegs and attaching supply lines
- replenishing drink dispensers, shelves and refrigerators
- perform general waiting duties and other incidental duties

Skills, qualifications and experience: The skills, qualifications and experience for the occupation of Bar Attendant (Supervisor) are as per **Schedule 5** of this Agreement.

Occupation: Waiter (Supervisor) (Equivalent to ANZSCO Skill Level 4)**6-digit Code: 070499****Tasks:**

- supervising and training food and beverage attendants of a lower grade
- responsible for the front of house dining room or catering function
- taking reservations, greeting, seating guests and presenting them with menus and beverage lists
- report to manager on duty or equivalent senior management or venue owner, assist in rostering of staff
- assist manager on duty or equivalent management or venue owner with end of shifts (afternoon or night) reconciliation of transactions
- receipt and dispensing of all monies
- banking of cash and ensure the till is adequate for change
- coordinate and manage stock take
- setting and arranging tables
- taking orders and relaying them to kitchen and bar staff
- serving food and beverages
- opening bottles and pouring beverages
- clearing tables and returning dishes and cutlery to kitchen
- removing empty bottles and used glasses from tables, and refilling and replacing glasses
- collecting payments for sales and operating point of sales machines and cash registers
- may recommend wines to complement food

Skills, qualifications and experience: The skills, qualifications and experience for the occupation of Waiter (Supervisor) are as per **Schedule 5** of this Agreement.

Schedule 5 Qualifications and Experience

The following skills, qualifications, experience and employment background requirements apply to the occupations listed in the tables below in relation to the TSS and ENS visas. The requirements for Driller's Assistants relate to TSS visas only.

Item 5.1 Occupations on the combined eligible list of skilled occupations

For the occupations in the table below, which are on the eligible lists of skilled occupations (the Short-term Skilled Occupation List, Medium and Long-term Strategic Skills List or Regional Occupation List), any nomination for these occupations or any application for a TSS or ENS visa connected with these occupations must satisfy the skills, qualifications, experience and employment background required under the standard TSS and ENS visa programs.

Table 2: Occupations on the combined eligible list of skilled occupations

ANZSCO Code	Occupation	ANZSCO Skill Level
221111	Accountant (General)	1
134211	Medical Administrator	1
321111	Automotive Electrician	3
121312	Beef Cattle Farmer	1
331212	Carpenter	3
331211	Carpenter and Joiner	3
351311	Chef	2
233111	Chemical Engineer	1
134111	Child Care Centre Manager	1
233211	Civil Engineer	1
411711	Community Worker	2
149212	Customer Service Manager	2
321212	Diesel Motor Mechanic	3
411712	Disabilities Services Officer	2
241111	Early Childhood (Pre-Primary School) Teacher	1
311412	Earth Science Technician	2
233311	Electrical Engineer	1
312312	Electrical Engineers Technician	2
341111	Electrician (General)	3
341112	Electrician (Special Class)	3
253912	Emergency Medicine Specialist	1
441211	Emergency Service Worker	3
133211	Engineers Manager	1
233914	Engineers Technologist	1
323211	Fitter (General)	3
323212	Fitter and Turner	3

ANZSCO Code	Occupation	ANZSCO Skill Level
323213	Fitter-Welder	3
234411	Geologist	1
234412	Geophysicist	1
233212	Geotechnical Engineer	1
141311	Hotel or Motel Manager	2
223111	Human Resource Adviser	1
221112	Management Accountant	1
233512	Mechanical Engineer	1
312512	Mechanical Engineers Technician	2
253999	Medical Practitioners nec	1
322311	Metal Fabricator	3
323214	Metal Machinist (First Class)	3
312912	Metallurgical or Materials Technician	2
233611	Mining Engineer (excluding Petroleum)	1
321211	Motor Mechanic (General)	3
251912	Orthotist or Prosthetist	1
252511	Physiotherapist	1
233513	Production or Plant Engineer	1
313211	Radiocommunications Technician	2
223112	Recruitment Consultant	1
251513	Retail Pharmacist	1
272511	Social Worker	1
251214	Sonographer	1
253399	Specialist Physicians nec	1
452321	Sports Development Officer	3
233214	Structural Engineer	1
253511	Surgeon (General)	1
263311	Telecommunications Engineer	1
313212	Telecommunications Field Engineer	2
263312	Telecommunications Network Engineer	1
313213	Telecommunications Network Planner	2
313214	Telecommunications Technical Officer or Technologist	2
322313	Welder (First Class)	3
272613	Welfare Worker	1
411716	Youth Worker	2

Item 5.2 Other occupations not on eligible skills lists

For the occupations, which are requested under this Agreement but are not on the combined eligible list of skilled occupations, the following skills, qualifications, experience and employment background criteria will apply to any nomination for these occupations or any application for a TSS or ENS visa made under the Migration Legislation.

Skills Assessment

Qualifications are to be assessed by the relevant Skills Assessing Authority (as specified in the Labour Agreement) as being at least equivalent to the relevant Australian Qualifications Framework (AQF) qualification detailed for the relevant tables below, in order to assist the Minister's decision as to whether the visa applicant has the necessary qualifications for the position.

The Minister may require a person to demonstrate that he or she has the skills that are necessary to perform the tasks of the nominated occupation by undertaking a skills assessment conducted by the relevant Skills Assessing Authority (as specified in the Labour Agreement). Any skills assessment must be certified as being in accordance with the arrangements agreed to with the Commonwealth. A skills assessment is required for applications lodged for the occupations listed in Tables 3 to 7.

Experience must be certified by the DAR as being genuine and relevant to the nominated occupation/position, in order to assist the Minister's decision as to whether the visa applicant has the necessary employment background for the position.

ANZSCO Skill Level 1 - 3 Occupations (not on eligible skills lists)

The occupations outlined in Table 3 must meet the following requirements:

1. If required to do so by the Minister, a visa applicant must undergo a skills assessment by the relevant Skills Assessing Authority (as specified in the Labour Agreement), and
2. Meet the skill level requirements as defined in ANZSCO, and
3. Have at least two years' post qualification experience.

Table 3: ANZSCO Skill Level 1-3 Occupations not on the eligible skilled occupation list

ANZSCO Code	Occupation	ANZSCO Skill Level
	None specified in current DAMA business case	

Specified ANZSCO Skill Level 2 Occupation (not on eligible skills lists)

The following skills requirements are to be met for the following skill level 2 specified occupation, not included in the eligible list of skilled occupations, as outlined in Table 4. The visa applicant must:

- undergo skills assessment conducted by the relevant Skills Assessing Authority (as specified in the Labour Agreement)

AND MEET ONE OF THE FOLLOWING GROUPS OF REQUIREMENTS

- meet the qualification level as defined in ANZSCO in business administration or in a field highly relevant to the retail setting being managed, and
- have at least one year post qualification experience (20 hours plus per week) completed within the last five years.

OR

- meet the qualification level as defined in ANZSCO in any field of study other than mentioned above, and
- have at least two years' post qualification experience (20 hours plus per week) completed within last five years.

OR

- meet the qualification level as defined in ANZSCO in any field of study, and
- have at least four years' work experience (20 hours plus per week) if undertaken prior to completion of the qualification.

ANZSCO Indicative Skill Level: AQF Associate Degree, Advanced Diploma or Diploma

Table 4: Specified ANZSCO Skill Level 2 Occupations

ANZSCO Code	Occupation	ANZSCO Skill Level
142111	Retail Manager (General)	2

Specified ANZSCO Skill Level 4 Occupation (not on eligible skills lists)

For occupations listed in Table 5 the following skill and experience requirements apply. The visa applicant must;

- undergo a skills assessment conducted by the relevant Skills Assessing Authority (as specified in the Labour Agreement)

AND

- have at least a relevant Australian Qualifications Framework (AQF) Diploma or equivalent or higher level qualification, and
- have at least one year (20 hours plus per week) relevant post qualification experience.

ANZSCO Indicative Skill Level: AQF Certificate II or III

Table 5: Specified ANZSCO Skill Level 4 Occupation

ANZSCO Code	Occupation	ANZSCO Skill Level
421111	Child Care Worker	4

Schedule 4 specified occupation and other ANZSCO Skill Level 4 Occupations (not on eligible skills lists)

For occupations listed in **Schedule 4** (not in ANZSCO) and other skill level 4 occupations requested under this Agreement as listed in Table 6 the following skill and experience requirements apply. The visa applicant must;

- undergo a skills assessment conducted by the relevant Skills Assessing Authority (as specified in the Labour Agreement)

AND MEET ONE OF THE FOLLOWING GROUPS OF REQUIREMENTS

- have at least a relevant Australian Qualifications Framework (AQF) Certificate II or equivalent or higher level qualification, and
- have at least one and a half years (20 hours plus per week) relevant post qualification experience.

OR

- have at least a relevant Australian Qualifications Framework (AQF) Certificate III or equivalent or higher level qualification, and
- have at least one year (20 hours plus per week) relevant post qualification experience).

OR

- have at least two years (38 hours plus per week) relevant experience.

ANZSCO Indicative Skill Level: AQF Certificate II or III

Table 6: Specified other ANZSCO Skill Level 4 Occupations

ANZSCO or 6-digit Code	Occupation	ANZSCO Skill Level
070499	Bar Attendant (Supervisor)	4
712211	Driller	4
721211	Earthmoving Plant Operator	4
721216	Loader Operator	4
721999	Mobile Plant Operator nec	4
821712	Scaffolder	4
733111	Truck Driver (General)	4
070499	Waiter (Supervisor)	4

ANZSCO Skill Level 5 Occupations (not on eligible skills lists)

For skill level 5 occupations requested under this Agreement as listed in Table 7 the following skill and experience requirements apply. The visa applicant must;

- undergo skills assessment conducted by the relevant Skills Assessing Authority (as specified in the Labour Agreement)

AND MEET ONE OF THE FOLLOWING GROUPS OF REQUIREMENTS

- have at least a relevant Australian Qualifications Framework (AQF) Certificate I or equivalent or higher level qualification, and
- have at least six months (20 hours plus per week) relevant post qualification experience.

OR

- have at least two years (38 hours plus per week) relevant experience.

ANZSCO Indicative skill Level: AQF Certificate I or compulsory secondary education

Table 7: ANZSCO skill level 5 occupation

ANZSCO or 6-digit Code	Occupation	ANZSCO Skill Level
821912	Driller's Assistant	5

Schedule 6 Concession to the Temporary Skilled Migration Income Threshold (TSMIT)

In relation to the nomination of occupations for TSS visas and ENS visas, the Designated Area Representative acknowledges that the following additional requirements must be met by a Third Party. These requirements will be included in the Labour Agreements associated with this Agreement. Individual Labour Agreements will specify which Occupations are concessional occupations (if any) and which TSMIT concessions (if any) will apply for a Third Party who enters into a Labour Agreement.

- 'Non-concessional occupation' means an occupation that may be nominated under this Agreement but is not specified in Table 8.
- 'Concessional occupation' means an occupation specified in Table 8.

For both concessional and non-concessional occupations:

- 'Annual Market Salary Rate' has the same meaning as in the Migration Regulations, and is determined in accordance with the instrument which specifies the method for determining the Annual Market Salary Rate for an occupation nominated under section 140GB of the Migration Act or an occupation in relation to which a position is nominated under regulation 5.19 of the Migration Regulations.
- 'Annual Earnings' means an Overseas Worker's Earnings calculated on an annual basis.

Non-concessional occupations

'Earnings' has the same meaning as in the Migration Regulations.

In relation to an Overseas Worker who is nominated for a non-concessional occupation in relation to a TSS visa, the nominating Third Party must meet the legislative requirements relating to TSMIT, Annual Market Salary Rate and Annual Earnings which would apply if the Overseas Worker were nominated in relation to the Short-term stream or Medium-term stream in the standard TSS visa program.

In relation to an Overseas Worker who is identified for a non-concessional occupation in relation to an ENS visa, the nominating Third Party must meet the legislative requirements relating to TSMIT, Annual Market Salary Rate and Annual Earnings which would apply if the Overseas Worker were identified in relation to the Temporary Residence Transition stream or the Direct Entry stream in the standard ENS visa program.

Concessional occupations

In relation to an Overseas Worker who is nominated/identified for a concessional occupation in relation to a TSS visa or an ENS visa, in accordance with the applicable concession type set out below, the nominating Third Party must provide the Overseas Worker with an amount of Annual Earnings which is equal to or greater than the Annual Market Salary Rate and Reduced TSMIT. 'Reduced TSMIT' means 90% of TSMIT.

The Designated Area Representative will specify in the attachment to their endorsement letter, the TSMIT Concession type applicable to each endorsed concessional Occupation, as supported by a Third Party's evidence-based case for the concession to apply.

TSMIT Concession

Employers may seek endorsement from the Designated Area Representative for the following concession to apply to a concessional Occupation.

Reduced TSMIT, and Earnings to include Guaranteed Overtime and Non-Monetary and Monetary Benefits

'Reduced TSMIT' applies.

'Earnings' has the same meaning as in the Migration Regulations except that it also includes:

1. Guaranteed overtime where:
 - The guaranteed overtime is consistent with standard industry practice within the sector;
 - There are equivalent Australians performing equivalent work in the Third Party's workplace at the same location and whose arrangements have been guaranteed in an industrial arrangement for those workers; and
 - At the time of nomination the Third Party provides evidence that the hours are guaranteed within the employment contract for the Overseas Worker, and confirms the hours are consistent with the National Employment Standards; and
 - Application of the concession is subject to the Earnings being in line with applicable Industrial Awards or Enterprise Agreements and not below levels for Australian employees in comparable roles; and
2. Monetary and non-monetary benefits, where:
 - The benefits support the living costs of the Overseas Worker;
 - The Overseas Worker would have incurred that cost had it not been provided by the Third Party;
 - The benefits are quantifiable;
 - The benefits are consistent with the terms and conditions provided to existing Australians employed in a similar position;
 - The benefits are guaranteed in the employment contract; and
 - The benefits exclude contingent payments such as overtime (other than guaranteed overtime) bonuses and commissions.

When calculating an Overseas Worker's Earnings, the value of non-monetary earnings (such as phone, vehicle, food and board) cannot exceed \$4,851 annually (i.e. capped at 10% of the Reduced TSMIT).

Table 8: Occupations to which TSMIT Concessions may apply

ANZSCO Code	Occupation	ANZSCO Skill Level
070499	Bar Attendant (Supervisor)	4
121312	Beef Cattle Farmer	1
421111	Child Care Worker	4
070499	Waiter (Supervisor)	4

Schedule 7 Concession to English language requirement

In this Schedule, **IELTS** means the International English Language Testing System or the equivalent in another accepted English language test.

Other accepted English language tests are:

- Occupational English Test (OET);
- Test of English as a Foreign Language internet-based test (TOEFL iBT);
- Pearson Test of English (PTE) Academic test; or
- Cambridge English: Advanced (CAE) test.

The English language requirements may be met if a visa applicant would be regarded as an 'exempt applicant' for the purpose of the legislative instruments applicable to TSS and ENS visas.

For any Occupations that are not listed in Table 9 below, the Overseas Worker is required to meet the minimum standard English language requirements applicable to the TSS and ENS non-labour agreement visa streams under the Migration Regulations.

For the Occupations listed in Table 9 below, the following English language concessions apply:

- **TSS concession:** average score of IELTS 5.0 with no component being less than IELTS 4.0 or equivalent (unless registration or licensing requires a higher level of English).
- **ENS concession:** average score of IELTS 5.0 with no component being less than IELTS 4.5 or equivalent (unless registration or licensing requires a higher level of English).

Table 9: Occupations seeking concessions for English language

ANZSCO Code	Occupation	ANZSCO Skill Level
321111	Automotive Electrician	3
070499	Bar Attendant (Supervisor)	4
121312	Beef Cattle Farmer	1
331212	Carpenter	3
331211	Carpenter and Joiner	3
351311	Chef	2
149212	Customer Service Manager	2
321212	Diesel Motor Mechanic	3
712211	Driller	4
821912	Driller's Assistant	5
721211	Earthmoving Plant Operator	4
341111	Electrician (General)	3
341112	Electrician (Special Class)	3
323211	Fitter (General)	3
323212	Fitter and Turner	3
323213	Fitter-Welder	3

ANZSCO Code	Occupation	ANZSCO Skill Level
141311	Hotel or Motel Manager	2
721216	Loader Operator	4
322311	Metal Fabricator	3
323214	Metal Machinist (First Class)	3
721999	Mobile Plant Operator nec	4
321211	Motor Mechanic (General)	3
142111	Retail Manager (General)	2
821712	Scaffolder	4
452321	Sports Development Officer	3
733111	Truck Driver (General)	4
070499	Waiter (Supervisor)	4
322313	Welder (First Class)	3

Schedule 8 Permanent Residence Pathway

A permanent residence pathway for Overseas Workers may be available through the Employer Nomination Scheme (ENS) Subclass 186 visa program for all occupations in **Schedule 3** except ANZSCO skill level 5 occupations. In this Agreement, the occupation of Driller's Assistant (ANZSCO code 821912) is excluded from a permanent residence pathway.

The following conditions will ordinarily be included in a Labour Agreement and will apply to any nomination for an ENS visa (in addition to the ENS requirements outlined in the Migration Legislation).

- (a) The Overseas Worker, at the time of an application for approval of the ENS nomination ('the ENS nomination'), holds a Subclass 457 visa or a TSS visa, and
- (b) The Third Party's ENS nomination identifies an Occupation that was either:
 - 1. the subject of the most recently approved nomination (in the case of an Overseas Worker who is a Subclass 457 visa holder), or
 - 2. the subject of the most recently approved visa (in the case of an Overseas Worker who is a TSS visa holder), and
- (c) The ENS nominated occupation is not an ANZSCO skill level 5 occupation, and
- (d) The Overseas Worker has been employed on a full-time basis for a period of at least 3 years before the ENS nomination is made, in the ENS nominated occupation or an Occupation in the same ANZSCO 4 digit level, being an occupation specified in this Agreement, and
- (e) For the whole time that the Overseas Worker was employed in accordance with paragraph (d):
 - 1. he or she must have held a Subclass 457 visa or a TSS visa, and
 - 2. he or she must have worked in the Designated Area outlined in Item 3 of Schedule 1 of this Agreement, and
- (f) An Overseas Worker may be nominated for an ENS visa only if they have not turned 50 years of age at the time of the Third Party's ENS nomination, and
- (g) The Overseas Worker identified in the ENS nomination will be employed on a full-time basis in the position for at least 2 years, and
- (h) The terms and conditions of employment of the Overseas Worker will not include an express exclusion of the possibility of extending the period of employment.

Schedule 9 Letter of Endorsement

[Insert letterhead]

[Insert date]

The Director
Employer Sponsored Program Management Section
Department of Home Affairs

Via email to: s.22(1)(a)(ii) @homeaffairs.gov.au

Dear Director,

Letter of Endorsement for [insert Third Party's name]

The City of Kalgoorlie-Boulder is the Designated Area Representative under the Designated Area Migration Agreement (the "Agreement") with the Commonwealth of Australia as represented by the Department of Home Affairs ("Commonwealth"). The Agreement is in relation to the recruitment of overseas workers in the WA Goldfields region.

This letter of endorsement is provided pursuant to clause 6.6 of the Agreement. Under clause 6.6 of the Agreement, the City of Kalgoorlie-Boulder endorses *[insert name of Third Party employer]* to enter into a Labour Agreement for the purpose of accessing Overseas Workers under the Agreement.

I attest that:

1. I have taken all reasonable steps to monitor the Designated Area labour market; and
2. this endorsement:
 - a. complies with the requirements of clause 6 of the Agreement; and
 - b. supports the objectives of this Agreement.

I also attest that *[insert name of Third Party employer]*:

3. has genuinely sought to recruit Australian citizens and permanent residents to the requested occupations in the Designated Area; and
4. has, with regard to the current labour market conditions, made a reasonable request with regards to both numbers and occupations to be filled by Overseas Workers in the Designated Area; and

The details of the *[insert name of Third Party employer]* are provided for reference:

Business Information	Details
Registered Name of Business	
State/Territory where Registered	
Registered Trading Name (if any)	
Australian Business Number (ABN)	
Business Address	
Postal Address	
Email Address	
Contact Person	
Contact Phone Number	

I endorse and wish to convey a request for *[insert name of Third Party employer]* to enter into a Labour Agreement under the Agreement for the following occupations, numbers and concessions detailed at **Attachment A**.

Enclosed are all documents submitted to the DAR for endorsement at **Attachment B**.

Where I have endorsed *[insert name of Third Party employer]* to have access to a concession to the Temporary Skilled Migration Income Threshold, I confirm that:

- the terms and conditions of employment of the overseas worker will be no less favourable than those provided to an Australian worker performing the same duties within the employer's workplace or within the designated area; and
- any associated risks to the Overseas Worker and their family will be adequately managed.

I will inform *[insert name of Third Party employer]* of their sponsorship obligations and that all nomination and visa applications lodged with the Commonwealth will be assessed in accordance with the Migration Legislation.

Yours sincerely,

[Insert details]

*To be signed by an officer specified in **Clause 6.6(h)** in the Agreement.*

Schedule 9a Attachment A

Endorsed occupations, numbers and concessions for [insert name of Third Party]

Temporary Skill Shortage (TSS)

ANZSCO or 6 digit code	Occupation	Maximum number of approved nominations in Year 1	Concession to TSMIT applicable as per Schedule 6	Concession to English requirement applicable per Schedule 7
			<i>Yes/No</i>	<i>Yes/No</i>

Employer Nomination Scheme (ENS)

ANZSCO or 6 digit code	Occupation	Maximum number of approved nominations in Year 1	Concession to TSMIT applicable as per Schedule 6	Concession to English requirement applicable per Schedule 7
			<i>Yes/No</i>	<i>Yes/No</i>

Schedule 10 Support Services

The Designated Area Representative will be responsible for ensuring that all Overseas Workers engaged under a Labour Agreement are supplied with information to assist their arrival in Australia and to develop links with the broader community. Information should include:

- (a) workplace rights and entitlements;
- (b) local area services such as health, emergency and educational services;
- (c) community activities and religious services;
- (d) living costs in the Designated Area; and
- (e) English language services (education and translating and interpreting services (TIS National)).

The information referred to above should be provided to the Overseas Worker prior to being engaged by the Third Party. Where the Overseas Worker is already employed by the Third Party, the information should be provided to the Overseas Worker prior to their initial application for a visa, unless the Overseas Worker has been living and working in the Designated Area for at least twelve months prior to the visa application.

The Designated Area Representative will:

1. provide cost effective and streamlined arrangements for skills assessment, including verification of claimed work experience by overseas workers based on risk factors;
2. provide a 'one-stop shop' for Third Parties seeking endorsement under the Agreement – this includes independent verification of business activity and ensuring requests from Third Parties are decision ready prior to endorsement;
3. put in place appropriate arrangements with the relevant work safety authorities to mitigate potential workplace risks;
4. assess requests by Designated Area employers for variation to TSMIT and/or other concessions, and managing the associated risks; and
5. provide ongoing monitoring and assistance to Third Parties who have signed a Labour Agreement.

Signing Page for Designated Area Migration Agreement

Executed as a Deed

Signed, sealed and delivered for and on behalf of the
Commonwealth of Australia
by the Hon David Coleman MP
Minister for Immigration, Citizenship
and Multicultural Affairs:

David Coleman
[Print name]

s.22(1)(a)(ii)

[Signature]

Date of signing: 4 / 3 / 19

s.22(1)(a)(ii)

[Print name of Witness]

s.22(1)(a)(ii)

[Signature of Witness]

Date of signing: 21 / 3 / 19
dd/mm/yyyy

Signed, sealed and delivered for and on behalf of the
City of Kalgoorlie-Boulder
by its duly authorised officer
in the presence of:

s.22(1)(a)(ii)

[Print name of authorised officer]

s.22(1)(a)(ii)

[Signature]

Date of signing: 19 / 3 / 19
dd/mm/yyyy

s.22(1)(a)(ii)

[Print name of Witness]

s.22(1)(a)(ii)

[Signature of Witness]

Date of signing: 18 / 03 / 20
dd/mm/yyyy



Australian Government
Department of Home Affairs

**DESIGNATED AREA MIGRATION
AGREEMENT**

Between

**Commonwealth of Australia as represented by the
Minister for Immigration, Citizenship, Migrant Services and
Multicultural Affairs
(the Commonwealth)**

and

**East Kimberley Chamber of Commerce and Industry
(The Designated Area Representative)**

**In relation to the recruitment of overseas workers in the East
Kimberley Region**

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

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Date This Deed is made on _____ 2022.

Parties

The Commonwealth of Australia as represented by the Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs (the "Commonwealth"). The Commonwealth's particulars are set out in **Item 1 of Schedule 1**.

AND

The East Kimberley Chamber of Commerce and Industry ABN 73 754 070 279 (the Designated Area Representative). The Designated Area Representative's particulars are set out in **Item 2 of Schedule 1**.

Background

- A. This Agreement reflects the Commonwealth's intention to work with the Designated Area Representative to assist Australian businesses operating in the Designated Area to access workers from overseas to supplement the local labour force where acute skills and labour shortages exist.
- B. This Agreement sets out the process by which the Designated Area Representative and the Commonwealth will co-operate to facilitate Third Parties to enter into Labour Agreements for the purposes of accessing skilled and semi-skilled overseas workers in the Designated Area.
- C. Nothing in this Agreement affects each party's obligations under Law.

1. Definitions

In this Agreement:

Address means a party's address set out in **Item 1** and **Item 2 of Schedule 1**.

Adverse Information has the same meaning as in the Migration Regulations.

Agreement or Designated Area Migration Agreement means this Agreement, its schedules and attachments and any documents incorporated by reference in this Agreement.

Annual Turnover means all ordinary gross income earned in the ordinary course of business for the income year.

ANZSCO has the same meaning as in the Migration Regulations.

Auditor-General means the office established under the *Auditor-General Act 1997* (Cth) and any similar office established under the law of a State or Territory, and includes any other entity that may, from time to time, perform the functions of that office.

Australian where the context so admits, means an Australian citizen (whether born in Australia or elsewhere) or a non-citizen who, being usually resident in Australia, is the holder of a permanent visa granted under the *Migration Act 1958* (the Migration Act).

Australian Qualifications Framework (AQF) means the national policy for regulated qualifications in Australian education and training.

Business Address means the physical or postal address for a party, as set out in **Item 1** and **Item 2** of **Schedule 1**.

Business Day means a day that is not a Saturday, Sunday, or public holiday in the Australian Capital Territory or the region.

Cease Date means the cease date specified in **Item 4** of **Schedule 1**.

Concessions means any variations to the requirements prescribed in the Migration Legislation including in relation to the occupation, skills, qualifications, employment background, level of English language proficiency and the Temporary Skilled Migration Income Threshold (TSMIT) required for the nomination and grant of a visa in relation to Overseas Workers in the Designated Area, as specified in **Schedules 4, 5, 6, 7 and 8** of this Agreement (or as otherwise specified by the Commonwealth). These Concessions may be included in a Labour Agreement associated with this Agreement.

Contact Officer means the officers referred to in **Item 1** and **Item 2** of **Schedule 1**.

Department means the Department of Home Affairs.

Departmental Representative means an officer of the Department appointed by the Department to manage the Department's interests under this Agreement.

Designated Area means the area defined in **Item 3** of **Schedule 1**.

Designated Area Representative or DAR means the party identified in **Item 2** of **Schedule 1**, and includes a reference to any replacement body.

Effective Date means the effective date specified in **Item 4** of **Schedule 1**.

Email Address means a party's email address set out in **Item 1** or **Item 2** of **Schedule 1** of this Agreement.

ENS visa means the Employer Nomination Scheme (subclass 186) visa.

Information Commissioner has the same meaning as in the *Australian Information Commissioner Act 2010* (Cth).

Labour Agreement means a labour agreement entered into by the Minister and a Third Party under the Migration Legislation in relation to one or more Occupations and relevant Concessions in the Designated Area and may include requirements specified in **Schedules 4, 5, 6, 7 and 8** of this Agreement.

Law means any applicable statute, regulation, by-law, ordinance or subordinate legislation in force from time to time in Australia, whether made by a State, Territory, the Commonwealth, or a local government, and includes the common law as applicable from time to time, including the Migration Legislation.

Maximum Numbers mean the maximum numbers of approved nominations for an Occupation in the Designated Area as specified in **Schedule 3**. This is also referred to as a 'nomination ceiling'.

Migration Act means the *Migration Act 1958* (Cth.).

Migration Legislation means the Migration Act and/or the Migration Regulations and / or any instruments made under the Act or Regulations.

Migration Regulations means the *Migration Regulations 1994* (Cth.).

Minister means a reference to a "Minister" appointed to administer the Department and includes where relevant, delegates performing relevant functions as the Minister under the Migration Legislation.

National Employment Standards has the same meaning as in the *Fair Work Act 2009* (Cth.).

Objectives means the objectives of this Agreement as outlined in **Schedule 2**.

Occupations means those occupations prescribed in **Schedule 3**.

Overseas Worker means a person nominated by, or proposed to be nominated by, a Third Party under a Labour Agreement.

SESR visa means the Skilled Employer Sponsored Regional (Provisional) visa (Subclass 494).).

Personal Information has the same meaning as in the *Privacy Act 1988* (Cth).

Support Services means the services stipulated in **Schedule 10**.

Third Party means a person, company, partnership or an unincorporated association which has:

- (a) applied to be endorsed and may be, or will be, or has been, endorsed by the Designated Area Representative under this Agreement; or
- (b) who is a party to a Labour Agreement (other than the Minister).

TSMIT means the Temporary Skilled Migration Income Threshold specified in an instrument made under the Migration Regulations.

TSS visa means the Temporary Skill Shortage (subclass 482) visa.

2. Interpretation

In this Agreement, unless the context indicates a contrary intention:

(documents) a reference to this Agreement or another document includes any document which varies, supplements, replaces, assigns or novates this Agreement or that other document.

(references) a reference to a party, clause, paragraph, schedule or annexure is a reference to a party, clause, paragraph, schedule or annexure to or of this Agreement.

(headings) clause headings and the table of contents are inserted for convenience only and do not affect interpretation of this Agreement.

(person) a reference to a person includes a natural person, corporation, statutory corporation, body politic, partnership, the Crown and any other organisation or legal entity and their personal representatives, successors, substitutes (including persons taking by novation) and permitted assigns.

(party) a reference to a party to a document includes that party's personal representatives, executors, administrators, successors, substitutes (including persons taking by novation) and permitted assigns.

(requirements) a requirement to do anything includes a requirement to cause that thing to be done, and a requirement not to do anything includes a requirement to prevent that thing being done.

(including) **including** and **includes** are not words of limitation, and a list of examples is not limited to those items or to items of a similar kind.

(corresponding meanings) a word that is derived from a defined word has a corresponding meaning.

(singular) the singular includes the plural and vice-versa.

(gender) words importing one gender include all other genders.

(parts) a reference to one or more things includes each part and all parts of that thing or group of things but nothing in this clause implies that part performance of an obligation constitutes performance of that obligation.

(rules of construction) neither this Agreement nor any part of it is to be construed against a party on the basis that the party or its lawyers were responsible for its drafting.

(legislation) a reference to any legislation or provision of legislation includes all amendments, consolidations or replacements and all regulations or instruments issued under it.

(time and date) a reference to a time or date in connection with the performance of an obligation by a party is a reference to the time and date in Australian Capital Territory, Australia, even if the obligation is performed elsewhere.

(writing) a reference to a notice, consent, request, approval or other communication under this Agreement or an agreement between the parties means a written notice, request, consent, approval or agreement.

(replacement bodies) a reference to a body (including an institute, association or any government, local government, statutory, administrative, fiscal or judicial body, department, commission, authority, tribunal, public authority or other person who exercises a relevant authority) which ceases to exist or whose powers or functions are transferred to another body is a reference to the body which replaces it or which substantially succeeds to its power or functions.

(day) a reference to a day is a reference to a calendar day.

(month) a reference to a month is a reference to a calendar month.

3. Period

3.1 This Agreement commences on the Effective Date.

3.2 Unless terminated earlier in accordance with clause **Error! Reference source not found.** or **Error! Reference source not found.**, the period of this Agreement ends on the Cease Date.

4. Purpose

4.1 The purpose of this Agreement is to:

- (a) achieve the Objectives;
- (b) outline the roles and responsibilities of the Designated Area Representative and the Commonwealth in achieving the Objectives; and
- (c) set out the arrangements for the Designated Area Representative to assist the Commonwealth in administrative arrangements for processing applications for Labour Agreements and visas in the Designated Area, and monitoring of, and reporting on labour market conditions in the Designated Area.

5. Acknowledgements

5.1 The parties acknowledge that:

- (a) the Commonwealth may, by notice in writing, at any time:
 - (i) amend or update the Objectives, Occupations, Maximum Numbers, Concessions and Support Services for the purposes of this Agreement; or
 - (ii) amend, update or replace any other content in **Schedules 2 to 10** of this Agreement;

- (b) this Agreement is not a Labour Agreement;
- (c) this Agreement does not have the effect of making the Designated Area Representative an approved sponsor (within the meaning of the Migration Legislation); and
- (d) nothing in this Agreement fetters or detracts from the discretions, functions or powers of the Minister and the Commonwealth under Law, including in determining:
 - (i) whether to enter into, suspend or terminate a Labour Agreement with a Third Party;
 - (ii) the content of a Labour Agreement; or
 - (iii) whether to grant or cancel any visa.

6. Responsibilities of the Designated Area Representative

Collaboration

- 6.1 The Designated Area Representative will work collaboratively with the Commonwealth to achieve the Objectives.

Managing the endorsement process

- 6.2 The Designated Area Representative is responsible for endorsing a Third Party seeking access to a Labour Agreement associated with this Agreement.
- 6.3 In endorsing Third Parties, the Designated Area Representative will ensure that risks are appropriately managed, including ensuring:
 - (a) it treats all Third Parties impartially;
 - (b) it only endorses Third Parties seeking to enter into a Labour Agreement for the Occupations and Concessions;
 - (c) that Third Parties are aware of relevant requirements and obligations under the Migration Legislation;
 - (d) it only endorses Third Parties that meet Australian workplace and migration Laws;
 - (e) the Third Parties it endorses are aware of and capable of meeting migration requirements, including providing reports as necessary to meet auditing and Departmental requirements; and
 - (f) Third Parties seeking to sponsor Overseas Workers for visas with Concessions will only be endorsed by the Designated Area Representative where the Designated Area Representative is satisfied that the Concessions will not undermine the ability

of the Overseas Worker to support themselves financially, or lead to exploitation of the Overseas Worker.

- 6.4 The Designated Area Representative may only endorse Third Parties for a Labour Agreement:
- (a) for the Occupations and with the Concessions; and
 - (b) up to the Maximum Number.
- 6.5 If the Designated Area Representative endorses a Third Party to enter into a Labour Agreement then the Designated Area Representative must submit to the Commonwealth a letter of endorsement, in the form specified in **Schedule 9**, or such other form as is specified by the Commonwealth.
- 6.6 The endorsement provided by the Designated Area Representative must:
- (a) specify that the letter of endorsement is submitted under this Agreement;
 - (b) detail the Third Party's name, including any business name, business and postal address or email, and Australian Business Number;
 - (c) attest that the Third Party has genuinely sought to recruit, within the period specified by the Commonwealth, Australians to the requested Occupations in the Designated Area;
 - (d) attest that the Designated Area Representative has monitored the labour market;
 - (e) attest that the number of prospective Overseas Workers being requested by the Third Party to be engaged in the Designated Area in the Occupations and with the proposed Concessions (if any), are reasonable with regard to the current labour market conditions in those locations;
 - (f) attest that endorsement supports the Objectives;
 - (g) attach the application and any supporting information provided to the Designated Area Representative by the Third Party in seeking endorsement; and
 - (h) be signed on behalf of the Designated Area Representative by a person who is authorised to represent and bind the Designated Area Representative.
- 6.7 The Designated Area Representative must not endorse a Third Party if:
- (a) it reasonably believes the number of prospective Overseas Workers being requested by the Third Party to be engaged in certain locations and Occupations is not appropriate with regard to the current labour market conditions in those locations; or
 - (b) the Third Party has not genuinely sought to recruit, within the period specified by the Commonwealth, Australians to the requested Occupations in the Designated Area; or

- (c) the Designated Area Representative has any Adverse Information about the Third Party, and in the assessment of the Designated Area Representative it would not be reasonable to disregard that Adverse Information.
- 6.8 The Designated Area Representative is responsible for putting in place any measures it considers necessary to enable compliance by the Designated Area Representative with its obligations under clauses 6.2 to 6.7, and the monitoring, support, reporting and evaluation activities referred to in clauses 6.10 to 6.16, including, if necessary, entering into any binding undertakings or agreements with Third Parties.
- 6.9 The Designated Area Representative will provide reasonable assistance to the Commonwealth to support its assessment of applications for nominations or visa applications connected with a Labour Agreement as specified in **Schedule 10** of this Agreement or as otherwise agreed between the parties.

Monitoring

- 6.10 The Designated Area Representative must take all reasonable steps to:
- (a) monitor the labour market and the impact of government initiatives designed to assist unemployed, retrenched or disadvantaged Australians;
 - (b) ensure that Third Parties give first preference to Australians for a requested Occupation within the Designated Area before seeking to recruit, employ or engage Overseas Workers under a Labour Agreement associated with this Agreement; and
 - (c) identify any facts or circumstances that may be a breach of Law by a Third Party and report these to the relevant Commonwealth, State or Territory regulatory or enforcement bodies.

Supporting employers and visa holders

- 6.11 The Designated Area Representative will provide the Support Services in the Designated Area as specified in **Schedule 10** of this Agreement.

Reporting

- 6.12 The Designated Area Representative agrees to attend management meetings as requested by the Commonwealth.
- 6.13 The management meeting may be attended in-person, via teleconference or via videoconference.
- 6.14 The Designated Area Representative agrees to report in writing on the progress of this Agreement and the current labour market in the Designated Area (including the use of Overseas Workers to supplement the local labour force):
- (a) annually on the anniversary of the Effective Date; and
 - (b) within 14 days when requested in writing by the Commonwealth.

6.15 Reporting should cover the matters requested by the Commonwealth.

Evaluation

6.16 The Designated Area Representative must provide a written evaluation to the Commonwealth within three (3) months following the first anniversary of this Agreement, and within three (3) months of each subsequent anniversary of the Agreement. The evaluation must include:

- (a) progress of the Agreement in meeting the Objectives, including the Designated Area Representative's assessment of whether there remains an ongoing labour market need for Overseas Workers in the Designated Area;
- (b) details of any significant economic or social changes to the Designated Area that has impacted on the need for Overseas Workers to supplement the local labour force in the Designated Area;
- (c) an assessment of changes in the employment of Australians and non-Australians in the Designated Area;
- (d) evidence that the Designated Area Representative has been providing the Support Services during the relevant period; and
- (e) other information as requested by the Commonwealth.

Use of reports and evaluations

6.17 The Designated Area Representative agrees that the Commonwealth may use, copy, reproduce, adapt, modify and communicate any reports and evaluation material provided by the Designated Area Representative under this Agreement for any purpose, and warrants that the exercise of these rights by the Commonwealth as contemplated in this clause will not infringe the intellectual property or moral rights of any person.

7. Responsibilities of the Commonwealth

Consideration of Third Party Request for a Labour Agreement

- 7.1 The Commonwealth will consider a Third Party's request to enter into a Labour Agreement on receipt of a letter of endorsement provided by the Designated Area Representative and may refer the request to the Minister for consideration.
- 7.2 If the Minister approves the Third Party's request for a Labour Agreement, the Minister may enter into a Labour Agreement with the Third Party in accordance with the Migration Legislation.
- 7.3 The Commonwealth will, subject to any confidentiality obligations in a Labour Agreement, provide the Designated Area Representative with a copy of any Labour Agreement entered into by the Minister and the Third Party.

- 7.4 If the Minister does not approve the Third Party's request to enter into a Labour Agreement, the Commonwealth will notify the Third Party and the Designated Area Representative of this decision.

Management and monitoring

- 7.5 The Commonwealth will manage this Agreement with regard to the Objectives.
- 7.6 The Commonwealth will monitor the Designated Area Representative's compliance with the terms of this Agreement.

8. Indemnity

- 8.1 The Designated Area Representative indemnifies the Commonwealth from and against any cost or liability incurred by the Commonwealth, or loss or expense incurred by the Commonwealth 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 Commonwealth, arising from a breach by the Designated Area Representative of this Agreement.
- 8.2 The right of the Commonwealth to be indemnified under this clause 8 is in addition to, and not exclusive of, any other right, power or remedy provided by law, but the Commonwealth is not entitled to be compensated in excess of the amount of the relevant cost, liability, loss, damage or expense.
- 8.3 The provisions of this clause 8 survive termination or expiration of this Agreement.

9. Dispute Resolution

- 9.1 The parties will deal with any dispute arising during the course of this Agreement as follows:
- (a) the party claiming that there is a dispute must notify the other party of the dispute;
 - (b) the parties will use reasonable endeavours to resolve the dispute by direct negotiation between the Contact Officers;
 - (c) if negotiations between the Contact Officers fail to resolve the dispute, the matter can be escalated to an appropriate level to ensure prompt resolution of the matter in a manner consistent with good administration.
- 9.2 Both parties will continue to meet their obligations under this Agreement until the dispute or issue is resolved or as otherwise notified by the Commonwealth.
- 9.3 If the dispute or issue is not resolved after the dispute resolution process in this clause 9 has been implemented, then either one of the parties may terminate this Agreement by giving 28 days' written notice to the other party.

10. Access

10.1 The Designated Area Representative acknowledges that:

- (a) The rights of the Commonwealth under this Agreement are in addition to any relevant power, right or entitlement of the Auditor-General or the Information Commissioner; and
- (b) Nothing in this Agreement reduces, limits, restricts or derogates from in any way any relevant function, power, right or entitlement of the Auditor-General or the Information Commissioner.

10.2 The Designated Area Representative must allow the Commonwealth or its nominee access to the Designated Area Representative's premises, personnel, documents and other records, and all assistance reasonably requested, at all reasonable times to inspect and copy all relevant documentation and records, however stored, in the Designated Area Representative's possession or control, with respect to the Designated Area Representative's performance of its obligations under this Agreement.

10.3 The Commonwealth's rights in clause 10.2 are subject to:

- (a) the provision of reasonable prior notice to the Designated Area Representative;
- (b) compliance with the Designated Area Representative's reasonable security procedures;
- (c) each party bearing its own cost arising out of or in connection with any access, audit or inspection; and
- (d) if requested by the Designated Area Representative, entering into a deed of confidentiality relating to non-disclosure of the Designated Area Representative's confidential information in a form reasonably acceptable to the Designated Area Representative.

10.4 The Designated Area Representative must provide any relevant information as requested by the Commonwealth from time to time, within 14 days of the Commonwealth's request, with respect to the Designated Area Representative's performance of its obligations under this Agreement.

10.5 This clause 10 will survive for seven (7) years from the date of expiration or termination of this Agreement.

11. Retention of Documents

11.1 The Designated Area Representative must retain all documents relating to this Agreement for a minimum of 7 years from the expiration or termination of this Agreement.

12. Notices

- 12.1 Any notice, demand, consent or other communication given or made under this Agreement must be signed by the party giving or making it (or signed on behalf of that party by its authorised representative) except in the case of an email; and
- (a) left at, or sent by ordinary or pre-paid post to, the Business Address of the recipient; or
 - (b) sent to the Email Address of the recipient.
- 12.2 A party may change its Business Address or Email Address for the purpose of service by giving notice of that change to the other party in accordance with this clause 12.
- 12.3 Any communication will be taken to be received by the recipient:
- (a) in the case of a letter, on the third Business Day after the date of posting;
 - (b) in the case of an email, at the end of the day in which it is transmitted, providing the sender does not receive an email delivery failure notification in respect of the email.

13. Relationship Between Parties

13.1 Nothing in this Agreement:

- (a) constitutes a partnership between the parties; or
- (b) except as expressly provided, makes a party an agent of another party for any purpose.

13.2 A party cannot in any way or for any purpose:

- (a) bind another party; or
- (b) contract in the name of another party.

13.3 If a party must fulfil an obligation and that party is dependent on another party, then that other party must do each thing reasonably within its power to assist the other in the performance of that obligation.

14. Time For Doing Acts

- 14.1 If the time for doing any act or thing required to be done or a notice period specified in this Agreement expires on a day other than a Business Day, the time for doing that act or thing or the expiration of that notice period is extended until the following Business Day.
- 14.2 If any act or thing required to be done is done after 5.00pm on the specified day, it is taken to have been done on the following Business Day.

15. Further Assurances, Variation

- 15.1 Each party must promptly execute all documents and do all other things reasonably necessary or desirable to give effect to the arrangements recorded in this Agreement.
- 15.2 Unless otherwise specified in this Agreement, a provision of this Agreement can only be varied by a later written document executed by or on behalf of all parties.

16. No Assignment, Subcontracting

- 16.1 The Designated Area Representative cannot assign its rights under this Agreement without the prior written consent of the Commonwealth. The Commonwealth may impose conditions on any consent provided under this clause **Error! Reference source not found.**
- 16.2 The Designated Area Representative must not, except with the Commonwealth's prior written approval, subcontract the whole or part of the Designated Area Representative obligations under this Agreement.
- 16.3 The Designated Area Representative must notify the Commonwealth if functions and powers relevant to this Agreement are transferred (or are to be transferred) to another government agency body (a replacement body) as a result of any administrative rearrangement or machinery of government change.

17. Legal Expenses

- 17.1 Each party must pay its own legal costs and disbursements in connection with the negotiation, preparation, execution and carrying into effect of this Agreement.

18. Entire Agreement

- 18.1 The contents of this Agreement constitute the entire agreement between the parties and supersede any prior negotiations, representations, understandings or arrangements made between the parties regarding the subject matter of this Agreement, whether orally or in writing.
- 18.2 If there is any inconsistency between the terms of this Agreement, a descending order of precedence will be accorded to:
 - (a) the terms of this Agreement excluding schedules and attachments annexed to the Agreement;
 - (b) the schedules to the Agreement;
 - (c) any attachments annexed to the Agreement; and
 - (d) any documents incorporated by reference into this Agreement,

so that the terms of the higher ranked document, to the extent of the inconsistency, will prevail.

19. Severability, Waiver

- 19.1 If any provision of this Agreement is held to be unlawful, invalid, unenforceable or in conflict with any Law, it is to be severed so that the validity and enforceability of the remaining provisions are not affected.
- 19.2 A right or remedy created by this Agreement cannot be waived except in writing signed by the party entitled to that right. Delays by a party in exercising a right or remedy does not constitute a waiver of that right or remedy, nor does a waiver (either wholly or in part) by a party of a right operate as a subsequent waiver of the same right or of any other right of that party.

20. Conflict Of Interest

- 20.1 Each party warrants that, to the best of its knowledge after making diligent inquiry, at the date of signing this Agreement no conflict of interest exists or is likely to arise under this Agreement.
- 20.2 If, during the period of this Agreement, a party becomes aware of a conflict of interest or a risk of conflict of interest arising, each party undertakes to notify the other party immediately in writing of that conflict or risk.

21. Termination

- 21.1 Either party may, in its discretion, terminate this Agreement at any time for any reason by giving 90 days' written notice to the other party.
- 21.2 If a party fails to satisfy any of its obligations under this Agreement, then the other party - *if it considers that the failure is:*
- (a) *not capable of remedy* - may, by notice, terminate this Agreement immediately; or
 - (b) *capable of remedy* - may, by notice require that the failure be remedied within the time specified in the notice and, if not remedied within that time, may terminate the Agreement immediately by giving a second notice.
- 21.3 The Designated Area Representative is not entitled to any compensation or payments as a result of either party terminating this Agreement under this clause **Error! Reference source not found..**

22. Pre-contractual warranty

- 22.1 The Designated Area Representative warrants that information supplied to the Commonwealth with respect to the Designated Area Representative being a fit and proper person to enter into this Agreement, and upon which the Department relied, is true and correct.

23. Confidential Information

23.1 The parties will execute a Confidentiality Deed in the form set out in Schedule 11.

24. Protection of Personal Information

24.1 This clause 24 applies only to the extent that the Designated Area Representative deals with Personal Information under this Agreement. Any capitalised terms have the same meaning as they have in the *Privacy Act 1988* (Cth) (the *Privacy Act*).

24.2 In addition to the requirements set out in the Deed of Confidentiality in Schedule 11, executed in accordance with clause 23.1 of this Agreement, the Designated Area Representative agrees that it must ensure that it:

- (a) uses Personal Information provided by the Commonwealth, or collected on behalf of the Commonwealth only for the purposes for which it was provided or collected;
- (b) protects Personal Information held on the Commonwealth's behalf from misuse, loss, unauthorised access or disclosure; and
- (c) does not transfer Personal Information outside Australia, or allow parties outside Australia to have access to it, without the prior approval of the Commonwealth;

24.3 If the Designated Area Representative becomes aware that there are reasonable grounds to suspect that there may have been, or where the Commonwealth notifies the Designated Area Representative that there has been, an Eligible Data Breach in relation to any Personal Information held by the Designated Area Representative as a result of this Agreement, the Designated Area Representative must:

- (a) notify the Commonwealth in writing as soon as possible, which must be no later than within three (3) days of becoming aware of the Eligible Data Breach;
- (b) take all reasonable action to mitigate the risk of the Eligible Data Breach causing serious harm to any of the individuals to whom the Personal Information relates;
- (c) unless otherwise directed by the Commonwealth, carry out an assessment in accordance with the requirements of the *Privacy Act*; and
- (d) take any action as reasonably directed by the Commonwealth or its delegate.

24.4 The Designated Area Representative must ensure that any subcontract entered into by the Designated Area Representative for the purpose of fulfilling its obligations under this Agreement (as approved by the Commonwealth in accordance with clause 16.2 of this Agreement) imposes on the Designated Area Representative the same obligations that the Designated Area Representative has under this clause 24 (including this requirement in relation to subcontracts).

24.5 The Designated Area Representative agrees at all times to indemnify the Commonwealth and its personnel from and against any loss, liability or expense suffered or incurred by the Commonwealth which arises directly or indirectly from a breach of any of the Designated Area Representative's or subcontractors obligations referred to in this clause 24. The right to be indemnified under this clause is in addition to, and not exclusive of,

indemnification rights provided under clause 8 and in the Deed of Confidentiality executed by the parties in accordance with clause 23.1 of this Agreement.

24.6 The provisions of this clause 24 survive termination or expiration of this Agreement.

25. Governing Law and Jurisdiction

25.1 The laws applicable in the Australian Capital Territory govern this Agreement.

25.2 The parties submit to the non-exclusive jurisdiction of the courts of Australian Capital Territory and any courts competent to hear appeals from those courts.

26. Counterparts

26.1 This Agreement may consist of a number of counterparts and the counterparts taken together constitute one and the same instrument.

Schedule 1 Particulars

Item 1 Commonwealth Particulars

Name: Department of Home Affairs

Address: 6 Chan St, Belconnen, ACT, 2617

Email address: s.22(1)(a)(ii)@homeaffairs.gov.au

Contact Officer: Director, Labour Agreements Section

Item 2 Designated Area Representative Particulars

Name: East Kimberley Chamber of Commerce and Industry
ABN: 73 754 070 279

Business Address: Office D2, Phoenix Plaza, 120 Konkerberry Drive, Kununurra, WA
6743

Postal Address: PO Box 171, Kununurra, WA 6743

Telephone Number: s.22(1)(a)(ii)

Email Address: s.22(1)(a)(ii)

Contact Officer: s.22(1)(a)(ii)

Item 3 Designated Area

The Designated Area covered by this Agreement: The Western Australian Local Government Area of the Shire of Wyndham East Kimberley.

Item 4 Commencement and period

Effective Date: The date on which this Agreement is signed by the parties, or if signed on separate days, the date of the last signing.

Cease Date: Five years from the Effective Date.

Schedule 2 Objectives of the Designated Area Migration Agreement

The objectives of the Agreement are to complement existing Australian Government initiatives to address skills and labour shortages by:

- A. Providing the Designated Area with a flexible mechanism to address workforce shortages and support workforce planning.
- B. Enabling employers in the Designated Area, who are unable to recruit appropriately qualified Australians, to supplement their workforce with access to Overseas Workers.
- C. Enhancing the economic performance of Designated Area employers who enter into associated Labour Agreements.
- D. Ensuring that Overseas Workers sponsored through Labour Agreements receive terms and conditions that meet applicable Australian workplace Law and are no less favourable than those provided to Australian workers.
- E. Promoting the training of Australians by employers entering into a Labour Agreement.

Schedule 3 Occupations and Maximum Numbers

Item 3.1 Maximum Number of approved nominations

Years 1 - 5 1000 approved nominations for TSS/SESR/ENS visas

The following occupations are approved under this Agreement.

Table 1: Occupation List

ANZSCO or 6 digit Code	Occupation	ANZSCO Skill Level
422111	Aboriginal Education Worker (or Coordinator)	4
411511	Aboriginal Health Worker	2
141999	Accommodation and Hospitality Managers (nec)	2
221111	Accountant	1
221113	Accountant (Taxation)	1
551111	Accounts Clerk	4
231111	Aeroplane Pilot	1
423111	Aged or Disabled Carer (includes Personal Care Worker)	4
721111	Agricultural Plant Operator	4
231199	Air Transport Professionals (nec) [includes Airworthiness Inspector]	1
721911	Aircraft Baggage Handler and Airline Ground Crew	4
323111	Aircraft Maintenance Engineer (Avionics)	3
323112	Aircraft Maintenance Engineer (Mechanical)	3
323113	Aircraft Maintenance Engineer (Structures)	3
321111	Automotive Electrician	3
351111	Baker	3
431111	Bar Attendant	4
070499	Bar Manager	2
070499	Bar Supervisor	4
431112	Barista	4
451111	Beauty Therapist	3
551211	Bookkeeper	3
121711	Broadacre and Livestock Farmer	1
312112	Building Associate (Building Construction Supervisor)	2
731211	Bus Driver	4
141111	Cafe or Restaurant Manager	2
070499	Café or Restaurant Supervisor	3
331212	Carpenter	3
331211	Carpenter and Joiner	3

ANZSCO or 6 digit Code	Occupation	ANZSCO Skill Level
351311	Chef	2
421111	Child Care Group Leader	2
421111	Child Care Worker	3
531111	Clerk (General)	4
811211	Commercial Cleaner	5
070499	Commercial Cleaner (Supervisor)	4
811411	Commercial Housekeeper	5
070499	Commercial Housekeeper (Supervisor)	4
133111	Construction Project Manager	1
351411	Cook	3
842211	Cotton Farm Worker	4
121511	Cotton Grower	1
842299	Crop Farm Workers (nec)	5
442213	Crowd Controller	4
149212	Customer Service Manager	2
321212	Diesel Motor Mechanic (also Automotive Heavy Mechanic)	3
411712	Disabilities Services Officer	2
241111	Early Childhood (Pre-primary School) Teacher	1
721211	Earthmoving Plant Operator (General)	4
342314	Electronic Instrument Trades Worker (incl Security Technician)	3
233211	Engineer (Civil)	1
233214	Engineer (Structural)	1
411411	Enrolled Nurse	2
721214	Excavator Operator	4
149913	Facilities Manager	2
323213	Fitter-Welder	3
851299	Food Trades Assistants (nec)	5
721311	Forklift Driver	4
842214	Grain, Oilseed, Pulse and Pasture Farm Worker	4
391111	Hairdresser	3
899311	Handyperson [Yardperson]	5
231114	Helicopter Pilot	1
363114	Horticultural Supervisor or Specialist	3
149999	Hospitality Retail and Service Managers (nec)	2
141311	Hotel or Motel or Resort Manager (incl Duty Manager)	2
542113	Hotel or Motel Receptionist	4
431411	Hotel Service Manager	2
313199	ICT Support Technician (nec)	2
224912	Liaison Officer	1

ANZSCO or 6 digit Code	Occupation	ANZSCO Skill Level
721216	Loader Operator	4
711999	Machine Operator (nec)	4
233512	Mechanical Engineer	1
312511	Mechanical Engineering Draftsperson	2
322311	Metal Fabricator/Boilermaker	3
323299	Metal Fitters and Machinists (nec)	3
323214	Metal Machinist	3
842499	Mixed Production Farm Workers (nec)	5
121799	Mixed Production Farmers (nec)	1
721999	Mobile Plant Operators (nec)	4
321211	Motor Mechanic (General)	3
423312	Nursing Support Worker (Assistant in Nursing)	4
251312	Occupational Health and Safety Officer	1
512111	Office Manager	2
070499	Operations and Client Experience Officer (Aviation)	4
431999	Other Hospitality Workers nec	5
149999	Other Hospitality, Retail and Service Managers (nec)	2
731213	Passenger Coach Driver	4
351112	Pastry Cook	3
843411	Pest Controller	4
333211	Plasterer	3
512299	Practice Manager (nec)	2
422115	Preschool Aide	4
542111	Receptionist (General)	4
142111	Retail Manager (General)	2
621511	Retail Supervisor	4
131112	Sales and Marketing Manager	1
621111	Sales Assistant (general)	5
611399	Sales Representative (nec)	4
442217	Security Officer	4
363199	Senior Aquaculture, Crop and Forestry Workers (nec)	3
363116	Senior Broadacre Crop Farm Worker	3
231213	Ship's Master [Skipper/Coxswain]	1
133611	Supply and Distribution Manager	1
422116	Teachers' Aide	4
451412	Tour Guide	3
733111	Truck Driver (general)	4
431511	Waiter	4
070499	Waiter (Supervisor)	4
333411	Wall and Floor Tiler	3

ANZSCO or 6 digit Code	Occupation	ANZSCO Skill Level
322313	Welder	3

Item 3.2 **Caveats not to apply**

None of the matters specified in an instrument made under sub regulation 2.72(9) of the Migration Regulations, applies to any Occupation specified in this Agreement.

Schedule 4 Occupations not in ANZSCO

The parties agree to the inclusion of the following occupations, not listed in ANZSCO, in this Agreement. For the purposes of nomination application and assessment, the tasks and relevant 6-digit codes for these occupations are outlined below:

ANZSCO or 6 digit Code	Occupation	ANZSCO Skill Level
070499	Bar Manager	2
070499	Bar Supervisor	4
070499	Café or Restaurant Supervisor	3
070499	Commercial Cleaner (Supervisor)	4
070499	Commercial Housekeeper (Supervisor)	4
070499	Operations and Client Experience Officer (Aviation)	4
070499	Waiter (Supervisor)	4

Occupation: Bar Manager (Equivalent to ANZSCO Skill Level 2)

Reports to: General Manager or Owner/Manager

6-digit Code: 070499

Position Description: The position of Bar Manager organises and controls the operations of a licensed bar, either a stand-alone bar or a bar within a larger premises such as a hotel, motel, resort, lodge, tourist or mining camp, or on a vessel, or within a restaurant. The position reports to a general manager, or owner-manager. The role of Bar Manager is to organise and control the operations of the bar, including the management and training of staff, ensuring customers are served in a professional and timely manner, and exercising patron care. Depending on the scale of the business, in larger premises with longer trading hours including weekends the position may be a duty manager position and may also be responsible for managing an associated liquor retail outlet, such as a 'bottle shop'. The Bar Manager position is not appropriate for a stand-alone 'bottle shop' that does not also have a bar that serves alcoholic beverages to patrons.

Tasks:

- planning drink menus including wine lists and sophisticated drinks such as cocktails
- planning and organising special functions
- arranging the purchasing and pricing of goods according to budget
- maintaining records of stock levels and negotiating with suppliers
- ensuring bar facilities comply with licensing and health regulations and are clean, functional and of suitable appearance
- conferring with customers to assess their satisfaction with products and service
- selecting, training and supervising bar staff, and where relevant 'bottle shop' staff, including ensuring that the staff profile complies with licensing laws
- ensuring all licensing laws are complied with by staff and patrons, including the provision of 'crowd controllers' ('bouncers') where required
- ensuring the bar and premises are operated in a manner that ensures the safety and well-being of staff and patrons
- managing the bar budget and financial transactions
- may be engaged in marketing and promotion of the bar and its services
- may greet guests and assist in preparing and serving beverages to patrons

Skills, qualifications and experience: The skills, qualifications and experience for the occupation of Bar Manager are as per **Schedule 5** of this Agreement.

Occupation: Bar Supervisor (Equivalent to ANZSCO Skill Level 4)

Reports to: Duty Manager or Manager

6-digit Code: 070499

Position Description: Position Description: The position is within a licensed hotel, bar, or food and beverage premises, or larger premises with a licensed food and beverage division. The position reports to a manager, such as a hotel duty manager, restaurant manager or similar manager (including owner-manager) depending on the scale of the business. The position is responsible for ensuring customers are served in a professional and timely manner, and that stock and takings are managed effectively and efficiently. The role is responsible for supervising one or more bar attendants at any one time, and for training bar employees at a lower level to meet employer and client expectations of service and quality.

Tasks:

- supervising and training bar attendants of a lower grade for a bar/licenced venue
- taking reservations, greeting and seating guests
- reporting to manager on duty or equivalent senior management or venue owner
- assisting with rostering of staff
- assisting manager on duty or equivalent management or venue owner with end of shifts (afternoon or night) reconciliation of transactions
- receipting and dispensing of all monies
- may include banking of cash and ensure the till is adequate for change
- coordinating and managing stock takes
- preparing, serving and selling cocktails, mixed drinks, bottled, canned and other alcoholic and non-alcoholic beverages to patrons
- supervising or undertaking cleaning and maintaining bar service areas
- collecting payment for sales and operating cash registers
- promoting services and products
- washing glassware and arranging bottles and glasses
- tapping kegs and attaching supply lines
- replenishing drink dispensers, shelves and refrigerators
- performing general waiting duties and other incidental duties relevant to the position

Skills, qualifications and experience: The skills, qualifications and experience for the occupation of Bar Attendant (Supervisor) are as per **Schedule 5** of this Agreement.

Occupation: Café or Restaurant Supervisor (Equivalent to ANZSCO Skill Level 3)

Reports to: Café or Restaurant Manager

6-digit Code: 070499

Position Description The position is within a food and beverage premises (café or restaurant) that may or may not be licensed to serve alcohol, or a larger business (hotel, or motel, or resort, or lodge, or mining camp) with a food and beverage division. The position reports to a manager, such as a hotel duty manager, restaurant manager, café manager or similar manager (including owner-manager) depending on the scale of the business. The role of Café or Restaurant Supervisor is to supervise, coordinate and train food and beverage staff and ensure a high level of customer service is delivered to guests. The position is responsible for ensuring customers are served in a professional and timely manner, including exercising patron care. The role is responsible for supervising one or more other café or restaurant staff at any one time and for training staff at a lower level. Depending on the scale of the business, the position may be responsible for individual shifts.

Tasks:

- supervision, training and coordination of food and beverage employees
- monitoring staff rosters, performance and resolving any grievances
- preparing displays and presenting stock, including specials
- taking reservations, greeting and seating guests
- maintaining stock control
- practicing proper workplace health and safety procedures
- communicating effectively with customers and fellow staff
- responding to customer requests in a professional and timely manner
- promoting the employer's services and facilities to the customers when appropriate
- assisting with maintaining customer service standards set by the employer
- ensuring that work areas comply with the highest standards of cleanliness
- ensuring that customers are served in a professional and diligent manner
- organising the cleaning of bar areas, glasses and equipment
- preparing and mixing a range of sophisticated drinks
- conferring with managers to coordinate activities with other establishment sections
- other relevant incidental and peripheral duties as requested by the employer

Skills, qualifications and experience: The skills, qualifications and experience for the occupation of Café or Restaurant Supervisor are as per **Schedule 5** of this Agreement.

Occupation: Commercial Cleaner (Supervisor) (Equivalent to ANZSCO Skill Level 4)

Reports to: Manager

6-digit Code: 070499

Position Description: Commercial Cleaners clean offices, residential complexes, hospitals, schools, industrial work areas, industrial machines, construction sites, mining camps and sites and other commercial premises, including using heavy duty cleaning equipment. The role of the Commercial Cleaner (Supervisor) is to ensure the smooth operation of the cleaning services on a larger site and may include responsibility for such supervision during a shift. The Commercial Cleaner (Supervisor) works closely with other departments/ managers/supervisors or their own Manager to ensure the premises are clean and hygienic in adherence with the policies and procedures of the business and/or the premises, and in accordance with any applicable regulatory requirements. The breadth of role and supervisory responsibility may vary depending on size of cleaning operations and premises, and the staffing footprint, but would involve supervising and training one or more Commercial Cleaners overall or during a specific shift. A Commercial Cleaner (Supervisor) may be in the employ of the entity operating the premises or site, or of an entity contracted to do so.

Tasks:

- supervise and inspect the day to day work of commercial cleaning staff overall or during a specific shift
- ensure that productivity is achieved and ensure timely cleaning services in accordance with required schedules
- ensure the commercial cleaning team public cleans the premises, equipment and/or public areas to the highest standards.
- allocate tasks to commercial cleaning staff
- may include training of commercial cleaning team members
- co-ordinate workforce during shift to meet daily deadlines
- attend to enquiries, requests and complaints regarding cleaning issues
- monitor as required the disposal of cleaning waste
- liaise with premises or site managers
- ensure safe manual lifting procedures, and safe handling and storage of cleaning materials and products, are adhered to
- ensure cleaning equipment is in safe and proper working order and report or arrange for repair of equipment as needed
- may involve management of a cleaning staff roster
- ensuring Workplace Health and Safety procedures are adhered to
- manage cleaning material and product stock
- setting and adhering to budget controls.

Skills, qualifications and experience: The skills, qualifications and experience for the occupation of Commercial Housekeeper (Supervisor) are as per **Schedule 5** of this Agreement.

Occupation: Commercial Housekeeper (Supervisor) (Equivalent to ANZSCO Skill Level 4)

Reports to: Executive Housekeeper/Manager (Hotel or Motel or Lodge or Camp)

6-digit Code: 070499

Position Description: The role of the Commercial Housekeeper (Supervisor) is to ensure the smooth operation of the housekeeping department during the relevant shift, and may work in a hotel, motel, resort, lodge, tourist camp, or mining (or other commercial) camp that includes accommodation. The Commercial Housekeeper (Supervisor) works closely with other departments/ managers/ supervisors to ensure the hotel or motel or camp rooms, cabins, or tents, and public areas are well presented and to adhere to the policies and procedures of the hotel or motel or camp. The breadth of role and supervisory responsibility may vary depending on size of accommodation provider and staffing footprint but would involve supervising and training one or more housekeeping staff overall or during a specific shift.

Tasks:

- supervising and inspecting the day to day work of housekeeping staff overall or during a specific shift
- ensuring that productivity is achieved and ensure timely room return
- ensuring the housekeeping team cleans the guests' or workers' rooms, cabins, or tents, and associated public areas to highest standards.
- ensuring that guest requests and other special cleaning requirements are met
- allocating duties to housekeeping staff
- may include training of housekeeping team members
- co-ordinating workforce during shift to meet daily deadlines
- checking rooms to ensure a high standard is met
- releasing rooms on time for guests
- attending to guest enquiries, requests and complaints
- monitoring as required the disposal of laundry and garbage
- liaising with maintenance and front office departments
- ensuring safe manual lifting procedures are adhered to
may involve management of a housekeeping staff roster
- ensuring Workplace Health and Safety procedures are adhered to
- managing stock of cleaning products (including their safe storage), and setting and adhering to budget controls
- may include monitoring and reporting issues with cleaning equipment and arranging repairs and maintenance.

Skills, qualifications and experience: The skills, qualifications and experience requirements for the occupation of Commercial Housekeeper (Supervisor) are as per Schedule 5 of this Agreement.

Occupation: Operations and Client Experience Officer (Aviation) (Equivalent to ANZSCO Skill Level 4)

Reports to: Operations Manager (or equivalent)

6-digit Code: 070499

Position Description: Responsible for supporting an Operations Manager (or equivalent) in the daily management of a flying schedule at a terminal, with a strong focus on coordinating services for a strong focus on coordinating services for all flight crew and clients, and in ensuring operations are running in a safe, systematic, and efficient manner in accordance with established procedures. The position is responsible for passenger movements to ensure transfers that are safe, efficient, and courteous. Operations and Client Experience Officers provide front-line customer service, which may include operating check-in counters, switchboard, and email communication. The role may include managing aspects of client reservations, including public passenger and charter. The role is also responsible for ground operations and office administration within a terminal, and for coordination of charter flights and freight distribution in conjunction with an Operations Manager (or equivalent).

Tasks:

- coordinating the operation of charter and scheduled flights and bookings, and allocating flight services according to service level agreements and contractual requirements
- ground operations, including but not limited to check-in, baggage & freight acceptance and facilitation of flight departures and arrivals
- point of contact for regular corporate and charter clients with regard to schedule changes, delays and general enquiries.
- work with corporate and charter clients to customise required flight services
- administration duties to ensure the smooth operation of the base, including but not limited to general inventory and ordering, banking, mail, and office upkeep.
- other incidental and peripheral but related duties as requested by the employer

Skills, qualifications and experience: The skills, qualifications and experience for the occupation of Operations and Client Experience Officer (Aviation) are as per **Schedule 5** of this Agreement.

Occupation: Waiter (Supervisor) (Equivalent to ANZSCO Skill Level 4)

Position: Food and Beverage Supervisor

Reports to: Duty Manager / Hotel Manager

6-digit Code: 070499

Position Description: The position is within a food and beverage premises (café or restaurant) that may or may not be licensed to serve alcohol, or a larger business (hotel, or motel, or resort, or lodge, or mining camp) with a food and beverage division. The position reports to a manager, such as a hotel duty manager, restaurant manager, café manager or similar manager (including owner-manager) depending on the scale of the business. The position is responsible for ensuring customers are served in a professional and timely manner, including exercising patron care. The role is responsible for supervising one or more other food and beverage wait staff at any one time and for training wait staff at a lower level. Depending on the scale of the business, the position may be responsible for individual shifts.

Tasks:

- reporting to manager on duty or equivalent senior management or venue owner, assisting in rostering of staff
- supervising and training food and beverage attendants and wait staff at a lower level
- responsible for the front of house dining room or catering function
- taking reservations, greeting, and seating of guests and presenting them with menus and beverage lists
- assisting the manager on duty or equivalent management or venue owner with end of shift (afternoon or night) reconciliation of transactions
- receipting and dispensing of all monies
- may include banking of cash and ensuring the till is adequate for change
- coordinating and managing stock takes
- setting and arranging tables
- taking orders and relaying them to kitchen and bar staff
- serving food and beverages
- opening bottles and pouring beverages
- clearing tables and returning dishes and cutlery to kitchen
- removing empty bottles and used glasses from tables, and refilling and replacing glasses
- collecting payments for sales and operating point of sales machines and cash registers
- may recommend wines to complement food

Skills, qualifications and experience: The skills, qualifications and experience for the occupation of Waiter (Supervisor) are as per **Schedule 5** of this Agreement.