



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

The Greater Shepparton City Council
(The Designated Area Representative)

**In relation to the recruitment of overseas workers in the
Goulburn Valley region**

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Date This Deed is made on _____ 2021.

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 Greater Shepparton City Council ABN 59 835 329 843 (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 9.3 or 21, 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 **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 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.
- 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 21.

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: The Greater Shepparton City Council
 ABN: 59 835 329 843
 Business Address: 90 Welsford Street
 Shepparton, VIC, 3632
 Postal Address: Locked Bag 1000
 Shepparton, VIC, 3632
 Telephone Number: s.22(1)(a)(ii)
 Email Address: s.22(1)(a)(ii)@shepparton.vic.gov.au
 Contact Officer: Sarah Hardwick

Item 3 Designated Area

The Designated Area covered by this Agreement: Goulburn Valley Region comprising the Victorian Local Government Areas of Greater Shepparton, Moira and Campaspe. Specifically this includes the following postcodes and postcode ranges:

3610	3559	3635 - 3641
3614	3561-3566	3644
3616-3618	3572-3573	3646
3629-3631	3612	3649
3633-3634	3620-3624	3727-3728
3647		3730

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

Year 1	200 approved nominations for TSS/SESR ENS visas
Year 2	200 approved nominations for TSS/SESR ENS visas
Year 3	200 approved nominations for TSS/SESR ENS visas
Year 4	200 approved nominations for TSS/SESR ENS visas
Year 5	200 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
221111	Accountant (General)	1
423111	Aged or Disabled Carer	4
234112	Agricultural Scientist	1
311111	Agricultural Technician	2
362212	Arborist	3
321111	Automotive Electrician	3
351311	Chef	2
233211	Civil Engineer	1
312212	Civil Engineering Technician	2
712915	Concrete Pump Operator	4
712111	Crane, Hoist or Lift Operator	4
321212	Diesel Motor Mechanic	3
251111	Dietician	1
411712	Disabilities Services Officer	2
241111	Early Childhood (Pre-Primary School) Teacher	1
341111	Electrician (General)	3
411411	Enrolled Nurse	2
222311	Financial Investment Advisor	1
851299	Food Trades Assistants nec	5
721311	Forklift Driver	4
841211	Fruit or Nut Farm Worker	5
841212	Fruit or Nut Picker	5
132311	Human Resource Manager	1
224999	Information and Organisation Professionals nec	1
221112	Management Accountant	1
831211	Meat Boner and Slicer	4
832114	Meat Packer	5

ANZSCO or 6 digit Code	Occupation	ANZSCO Skill Level
831311	Meat Processor	5
312512	Mechanical Engineering Technician	2
251211	Medical Diagnostic Radiographer	1
322311	Metal Fabricator	3
321211	Motor Mechanic (General)	3
252411	Occupational Therapist	1
332211	Painting Trades Worker	3
311216	Pathology Collector	3
252511	Physiotherapist	1
252611	Podiatrist	1
839312	Product Grader	4
511112	Program or Project Administrator	2
254414	Registered Nurse (Community Health)	1
254415	Registered Nurse (Critical Care and Emergency)	1
254422	Registered Nurse (Mental Health)	1
142111	Retail Manager (General)	2
621511	Retail Supervisor	4
334115	Roof Plumber	3
131112	Sales and Marketing Manager	1
225411	Sales Representative (Industrial Products)	1
241411	Secondary School Teacher	1
831212	Slaughterer	4
253311	Specialist Physician (General Medicine)	1
233214	Structural Engineer	1
133611	Supply and Distribution Manager	1
232212	Surveyor	1
733111	Truck Driver (General)	4
242211	Vocational Education Teacher	1
431511	Waiter	4

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

There are no non-ANZSCO occupations in 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 TSS and SESR visas and, where eligible under the permanent residence pathway, ENS visas.

Work experience required under the Labour Agreement for the purpose of the TSS, SESR or ENS visa can be served concurrently with any work experience used to substitute for formal qualifications as per ANZSCO requirements.

For the occupations specified in **Tables 2 to 5**, the following skills, qualifications, experience and employment background criteria will apply to any nomination for these occupations or any application for a TSS, SESR 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 an independent Skills Assessing Authority (as specified in the Labour Agreement). Any skills assessment must be certified as being in accordance with the arrangements agreed to in writing with the Commonwealth prior to the first Labour Agreement being entered into. A skills assessment is required for applications lodged for the occupations listed in **Tables 2 to 5**.

Work 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.

Item 5.1 Occupations on the combined eligible lists of skilled occupations (ANZSCO Skill Level 1-3)

ANZSCO Skill Level 1 - 3 Occupations

For the occupations in **Table 2** below, which are on the eligible lists of skilled occupations (the Short-term Skilled Occupation List, (STSOL), Medium and Long-term Strategic Skills List, (MLTSSL) or Regional Occupation List (ROL)), any nomination for these occupations 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 or ENS visa programs except:

- Where the relevant AQF qualification was obtained in Australia, only 1 year of relevant work experience (38 hours per week) is required for the TSS visa program
- Only 2 years of relevant work experience (38 hours per week) is required for the SESR visa program;

Table 2: Occupations on the combined eligible lists of skilled occupations (ANZSCO Skill Level 1-3 Occupations)

ANZSCO or 6 digit Code	Occupation	ANZSCO Skill Level
221111	Accountant (General)	1
234112	Agricultural Scientist	1
311111	Agricultural Technician	2
362212	Arborist	3
321111	Automotive Electrician	3
351311	Chef	2
233211	Civil Engineer	1
312212	Civil Engineering Technician	2
321212	Diesel Motor Mechanic	3
251111	Dietician	1
411712	Disabilities Services Officer	2
241111	Early Childhood (Pre-Primary School) Teacher	1
341111	Electrician (General)	3
411411	Enrolled Nurse	2
222311	Financial Investment Advisor	1
132311	Human Resource Manager	1
224999	Information and Organisation Professionals nec	1
221112	Management Accountant	1
312512	Mechanical Engineering Technician	2
251211	Medical Diagnostic Radiographer	1
322311	Metal Fabricator	3
321211	Motor Mechanic (General)	3
252411	Occupational Therapist	1
332211	Painting Trades Worker	3
311216	Pathology Collector	3
252511	Physiotherapist	1
252611	Podiatrist	1
511112	Program or Project Administrator	2
254414	Registered Nurse (Community Health)	1
254415	Registered Nurse (Critical Care and Emergency)	1
254422	Registered Nurse (Mental Health)	1
142111	Retail Manager (General)	2
334115	Roof Plumber	3
131112	Sales and Marketing Manager	1
225411	Sales Representative (Industrial Products)	1
241411	Secondary School Teacher	1
253311	Specialist Physician (General Medicine)	1
233214	Structural Engineer	1

ANZSCO or 6 digit Code	Occupation	ANZSCO Skill Level
133611	Supply and Distribution Manager	1
232212	Surveyor	1
242211	Vocational Education Teacher	1

Item 5.2 Occupations not on the eligible skilled Occupation list (ANZSCO Skill Level 4-5)

For the occupations specified in **Tables 3 and 4**, 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, SESR or ENS visa made under the Migration Legislation.

Skills Assessment

A skills assessment is required for applications lodged for the occupations listed in **Tables 3 and 4**. 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.

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 General skill level 4 skills requirements

For occupations listed in **Table 3** below, the following skill and experience requirements apply. The visa applicant must;

- Meet the skill level as defined in ANZSCO including where work experience can substitute the formal qualification; **AND**
- Undergo a skills assessment conducted by the relevant Skills Assessing Authority (as specified in the Labour Agreement); **AND**
- Have at least 2 years of relevant work experience (38 hours per week) for the SESR visa program; **OR**
- Have at least 1 year of relevant work experience (38 hours per week) undertaken in Australia for the TSS visa program **OR**
- Meet the additional work experience required under the standard TSS or ENS programs.

Table 3: ANZSCO General Skill Level 4 Occupations

ANZSCO or 6 digit Code	Occupation	ANZSCO Skill Level
423111	Aged or Disabled Carer	4

ANZSCO or 6 digit Code	Occupation	ANZSCO Skill Level
431511	Waiter	4
621511	Retail Supervisor	4
712111	Crane, Hoist or Lift Operator	4
712915	Concrete Pump Operator	4
721311	Forklift Driver	4
733111	Truck Driver (General)	4

Specified ANZSCO Skill Level 4 and 5 Occupations

The following skills requirements are to be met for the following ANZSCO skill level 4 and 5 occupations as outlined in **Table 4** below. The visa applicant must:

- Meet the skill level as defined in ANZSCO including where work experience can substitute the formal qualification; **AND**
- Undergo a skills assessment conducted by the relevant Skills Assessing Authority (as specified in the Labour Agreement); **AND**
- Have at least 2 years of relevant work experience (38 hours per week) under the SESR visa program; **OR**
- Have at least 1 year of relevant work experience (38 hours per week) undertaken in Australia for the TSS visa program **OR**
- Meet the additional work experience required under the standard TSS, SESR or ENS programs.

Table 4: Specified ANZSCO Skill Level 4 and 5 Occupations

ANZSCO or 6 digit Code	Occupation	ANZSCO Skill Level
851299	Food Trades Assistants nec	5
841211	Fruit or Nut Farm Worker	5
841212	Fruit or Nut Picker	5
831211	Meat Boner and Slicer	4
832114	Meat Packer	5
831311	Meat Processor	5
831212	Slaughterer	4
839312	Product Grader	4

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

In relation to the nomination of occupations for TSS, SESR 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 5**.
- 'Concessional occupation' means an occupation specified in **Table 5**.

For both concessional and non-concessional occupations:

- 'Annual Market Salary Rate' 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, 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 regulation 1.03 of the Migration Regulations, which provides that earnings has a meaning affected by regulation 2.57A of 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.

If an Overseas Worker who is identified for a non-concessional occupation in relation to an SESR visa, the nominating Third Party must meet the same legislative requirements relating to TSMIT, Annual Market Salary Rate and Annual Earnings which would apply if the Overseas Worker were accessing the employer sponsored stream of the standard SESR 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 (for TSMIT concession type 1) or TSMIT (for TSMIT concession type 2).

'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 types

Employers may seek endorsement from the Designated Area Representative for one of the following concession types to apply to an Occupation.

	Type 1	Type 2
Monetary Earnings	At least Reduced TSMIT	At least Reduced TSMIT
Non-monetary earnings (food & board)		No more than 10% of TSMIT
Total Annual Earnings	At least Reduced TSMIT	At least TSMIT

Type 1: Reduced TSMIT, and Earnings to include Guaranteed Overtime

'Reduced TSMIT' applies.

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

Type 2: TSMIT, and Earnings to include Guaranteed Overtime and Non-Monetary and Monetary Benefits

The Annual Earnings must be equal to or greater than TSMIT, and the Annual Earnings may include monetary and non-monetary benefits.

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

For concession type 2, when calculating an Overseas Worker's Earnings, the value of other non-monetary earnings (such as phone, vehicle) cannot exceed 10% of TSMIT).

Table 5: Occupations to which TSMIT Concessions may apply

ANZSCO Code	Occupation	ANZSCO Skill Level
423111	Aged or Disabled Carer	4
351311	Chef	2
321212	Diesel Motor Mechanic	3
411712	Disabilities Services Officer	2

ANZSCO Code	Occupation	ANZSCO Skill Level
241111	Early Childhood (Pre-Primary School) Teacher	1
851299	Food Trades Assistants nec	5
831211	Meat Boner and Slicer	4
832114	Meat Packer	5
831311	Meat Processor	5
312512	Mechanical Engineering Technician	2
511112	Program or Project Administrator	2
254414	Registered Nurse (Community Health)	1
142111	Retail Manager (General)	2
131112	Sales and Marketing Manager	1
831212	Slaughterer	4
431511	Waiter	4

Schedule 7 Concession to English language requirement

In this Schedule 7, **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 Occupations that are not listed in Table 6 below, 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 the Occupations listed in **Table 6.1** below, the following English language concessions apply:

- **TSS and SESR:** average score of IELTS 5.0 with no minimum component (unless registration or licensing requires a higher level of English).
- **ENS:** 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).

For the Occupations listed in **Table 6.2** below, the following English language concessions apply:

- **TSS, SESR and ENS:** 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).

Table 6.1: Occupations seeking concessions for English language

ANZSCO or 6 digit Code	Occupation	ANZSCO Skill Level
311111	Agricultural Technician	2
362212	Arborist	3
321111	Automotive Electrician	3
712915	Concrete Pump Operator	4
721311	Forklift Driver	4
841211	Fruit or Nut Farm Worker	5
841212	Fruit or Nut Picker	5
831211	Meat Boner and Slicer	4
832114	Meat Packer	5

ANZSCO or 6 digit Code	Occupation	ANZSCO Skill Level
831311	Meat Processor	5
312512	Mechanical Engineering Technician	2
321211	Motor Mechanic (General)	3
839312	Product Grader	4
334115	Roof Plumber	3
831212	Slaughterer	4
733111	Truck Driver (General)	4

Table 6.2: Occupations seeking concessions for English language

ANZSCO or 6 digit Code	Occupation	ANZSCO Skill Level
234112	Agricultural Scientist	1
132311	Human Resource Manager	1
621511	Retail Supervisor	4
131112	Sales and Marketing Manager	1
225411	Sales Representative (Industrial Products)	1

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 Table 7 and 8 below.

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 nomination in relation to an ENS visa ('the ENS nomination'), holds a TSS visa granted in connection with this Agreement; and
 - (b) The Third Party's ENS nomination identifies an Occupation in Table 8 that was the subject of the most recently approved TSS visa for the Overseas Worker; and
 - (c) 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, by one or more Third Parties who were all endorsed under this Agreement, in the ENS nominated occupation or an Occupation in Table 8 that is in the same ANZSCO 4 digit level, being an occupation specified in this Agreement; and
 - (d) For the whole time that the Overseas Worker was employed in accordance with paragraph (c):
 - 1. he or she must have held a TSS visa granted in connection with this Agreement; and
 - 2. he or she must have 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.
 - (g) For Skill Level 5 occupations, the overseas worker must be promoted to, or gain employment in a higher skill level occupation for a period of no less than two years before the ENS nomination is made. The time spent in the earlier Skill Level 5 occupation will count towards the overall four-year qualifying period for the permanent visa nomination in the occupations listed in Table 8.
- Note:** workers unable to upgrade to a skill level 4 occupation will not have a pathway to permanent residence.

Table 7: Occupations eligible for permanent residence pathway

ANZSCO or 6 digit Code	Occupation	ANZSCO Skill Level
423111	Aged or Disabled Carer	4
234112	Agricultural Scientist	1

ANZSCO or 6 digit Code	Occupation	ANZSCO Skill Level
311111	Agricultural Technician	2
362212	Arborist	3
321111	Automotive Electrician	3
351311	Chef	2
233211	Civil Engineer	1
312212	Civil Engineering Technician	2
712915	Concrete Pump Operator	4
712111	Crane, Hoist or Lift Operator	4
321212	Diesel Motor Mechanic	3
251111	Dietician	1
411712	Disabilities Services Officer	2
241111	Early Childhood (Pre-Primary School) Teacher	1
341111	Electrician (General)	3
411411	Enrolled Nurse	2
222311	Financial Investment Advisor	1
721311	Forklift Driver	4
132311	Human Resource Manager	1
224999	Information and Organisation Professionals nec	1
221112	Management Accountant	1
831211	Meat Boner and Slicer	4
312512	Mechanical Engineering Technician	2
251211	Medical Diagnostic Radiographer	1
322311	Metal Fabricator	3
321211	Motor Mechanic (General)	3
252411	Occupational Therapist	1
332211	Painting Trades Worker	3
311216	Pathology Collector	3
252511	Physiotherapist	1
252611	Podiatrist	1
839312	Product Grader	4
511112	Program or Project Administrator	2
254414	Registered Nurse (Community Health)	1
254415	Registered Nurse (Critical Care and Emergency)	1
254422	Registered Nurse (Mental Health)	1
142111	Retail Manager (General)	2
621511	Retail Supervisor	4
334115	Roof Plumber	3
131112	Sales and Marketing Manager	1
225411	Sales Representative (Industrial Products)	1

ANZSCO or 6 digit Code	Occupation	ANZSCO Skill Level
241411	Secondary School Teacher	1
831212	Slaughterer	4
253311	Specialist Physician (General Medicine)	1
233214	Structural Engineer	1
133611	Supply and Distribution Manager	1
232212	Surveyor	1
733111	Truck Driver (General)	4
242211	Vocational Education Teacher	1
431511	Waiter	4

Table 8: Skill level 5 Occupations eligible for permanent residence pathway

ANZSCO or 6 digit Code	Occupation	ANZSCO Skill Level
841211	Fruit or Nut Farm Worker	5
841212	Fruit or Nut Picker	5
831311	Meat Processor	5
832114	Meat Packer	5
851299	Food Trades Assistants nec	5

8.1 Age Concession

Age concession for the ENS and SESR visa programs of:

- 55 years for Overseas Workers in skill level 1- 4 occupations;

Table 10: Skill level 1-4 occupations eligible for permanent residence pathway age concession

221111	Accountant (General)	1
423111	Aged or Disabled Carer	4
234112	Agricultural Scientist	1
311111	Agricultural Technician	2
362212	Arborist	3
321111	Automotive Electrician	3
351311	Chef	2
233211	Civil Engineer	1
312212	Civil Engineering Technician	2
712915	Concrete Pump Operator	4
712111	Crane, Hoist or Lift Operator	4
321212	Diesel Motor Mechanic	3
251111	Dietician	1
411712	Disabilities Services Officer	2
241111	Early Childhood (Pre-Primary School) Teacher	1
341111	Electrician (General)	3
411411	Enrolled Nurse	2
222311	Financial Investment Advisor	1
721311	Forklift Driver	4
132311	Human Resource Manager	1
224999	Information and Organisation Professionals nec	1
221112	Management Accountant	1
831211	Meat Boner and Slicer	4
312512	Mechanical Engineering Technician	2
251211	Medical Diagnostic Radiographer	1
322311	Metal Fabricator	3
321211	Motor Mechanic (General)	3
252411	Occupational Therapist	1
332211	Painting Trades Worker	3
311216	Pathology Collector	3
252511	Physiotherapist	1
252611	Podiatrist	1
839312	Product Grader	4
511112	Program or Project Administrator	2
254414	Registered Nurse (Community Health)	1

254415	Registered Nurse (Critical Care and Emergency)	1
254422	Registered Nurse (Mental Health)	1
142111	Retail Manager (General)	2
621511	Retail Supervisor	4
334115	Roof Plumber	3
131112	Sales and Marketing Manager	1
225411	Sales Representative (Industrial Products)	1
241411	Secondary School Teacher	1
831212	Slaughterer	4
253311	Specialist Physician (General Medicine)	1
233214	Structural Engineer	1
133611	Supply and Distribution Manager	1
232212	Surveyor	1
733111	Truck Driver (General)	4
242211	Vocational Education Teacher	1
431511	Waiter	4

Schedule 8.2 Additional requirements for Nomination

Item 8.2 Labour Market Testing (LMT) requirements

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

Location of Business (Designated Regional Area)	LMT requirements
Category 2	The Sponsor must be able to demonstrate at least three separate attempts to test the Australian labour market for the nominated occupation, including one advertised on the Government's jobactive website. Category 2 location definition: a location within Australia with a postcode that is designated as a regional area of Australia and under the category 'Cities and major regional centres' for skilled migration purposes. See: <u>Designated regional area postcodes</u>
Category 3	The Sponsor must be able to demonstrate at least two separate attempts 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). Category 3 location definition: a location within Australia with a postcode that is designated as a regional area of Australia and under the category 'Regional centres and other regional areas' for skilled migration purposes. See: <u>Designated regional area postcodes</u>

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)** [\[redacted\]@homeaffairs.gov.au](mailto:[redacted]@homeaffairs.gov.au)

Dear Director:

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

The Greater Shepparton City Council 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 Goulburn Valley Regional area.

This letter of endorsement is provided pursuant to clause 6.6 of the Agreement. Under clause 6.6 of the Agreement, the Greater Shepparton City Council 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:

1. I have taken all reasonable steps to monitor the *[insert name of Regional area]* 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 *[insert name of Third Party employer]*:

3. has genuinely sought to recruit, within the *[previous six (6) 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 the Goulburn Valley Regional 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 Goulburn Valley Regional area.

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	
Australian Business Number (ABN)	
Postal Address	
Email Address	
Contact Person	
Business 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, number and concessions detailed at **Attachment A**.

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.

I have **attached** the application and any supporting information provided by *[insert name of Third Party employer]* to the Greater Shepparton City Council, which has been considered by the Greater Shepparton City Council in providing its endorsement.

Yours sincerely,

[Insert details]

To be signed by an officer who has the authority to represent and bind the DAR.

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
			Yes/No Concession Type 1,2	Yes/No

Skilled Employer Sponsored Regional (SESR)

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
			Yes/No Concession Type 1,2	Yes/No

Employer Nominated 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
			Yes/No Concession Type 1,2	Yes/No

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.

Schedule 11 Confidentiality Deed

Date

This Deed is made on ____ December 2021

Parties

This Deed is made by:

the Greater Shepparton City Council of 90 Welsford Street, Shepparton (the **Designated Area Representative**)

and

the Commonwealth of Australia, as represented by the Department of Home Affairs of 6 Chan Street, Belconnen ACT 2617 (the **Commonwealth**)

(together, the **Parties**).

Context

This Deed is made in the following context:

- A. The Commonwealth and the Designated Area Representative have entered into a Designated Area Migration Agreement (the **Agreement**), and to perform their obligations under that Agreement, may require access to Confidential Information.
- B. Each party is willing to provide access to necessary Confidential Information strictly for the Purpose and in accordance with this Deed.

Operative provisions

By this Deed the Parties agree as follows.

1. Interpretation

- 1.1. In this Deed, unless the context indicates a contrary intention:

Agreement	means the agreement, referred to in paragraph A of the Context, entered into by the Commonwealth and the Designated Area Representative which sets out the process by which the parties will co-operate to facilitate Third Parties accessing skilled and semi-skilled overseas workers.
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.
Deed	means this Deed of Confidentiality and includes all schedules and attachments to this Deed.
Personnel	means, in relation to a Party, its officers, employees and contractors.
Purpose	means, in respect of each Party, the performance of their obligations under the Agreement, and any related purposes.
Third Party	means a person, company, partnership or an unincorporated association which has applied to be endorsed and may be or will be or has been endorsed by the Designated Area Representative under the Agreement.

- 1.2. In this Deed, unless the context indicates a contrary intention:
- the singular includes the plural and vice versa; and
 - a reference to any legislation or provision of legislation includes all amendments, consolidations, replacements and all regulations or instruments issued under it.

2. Confidentiality

- Each party agrees to use the Confidential Information only as is legitimate and necessary for the Purpose and strictly in accordance with this Deed.
- The parties agree to secure all Confidential Information against loss and unauthorised access, use, modification or disclosure.
- Each party agrees to implement security procedures to ensure that it meets its obligations under this Deed.
- Each party will not, without the prior written authorisation of the other party, disclose any Confidential Information to any person, other than its Personnel who require access for the Purpose, unless the disclosure is required by law, a Minister, or a House or Committee of a Parliament, or is a disclosure by the Commonwealth for legitimate Commonwealth purposes or interests.
- An authorisation provided by a party under clause 2.4 may include conditions on the disclosure and the party receiving the authorisation must comply with any such conditions.
- Where the Designated Area Representative is required to disclose the Confidential Information, it must:
 - 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.

3. Privacy

- 3.1. Each party will comply with their obligations under applicable privacy laws.
- 3.2. 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 this clause 3.

4. Dealing with Copies

- 4.1. In this clause 4:

Copy means any document, device, article or medium in which Commonwealth Confidential Information is, or may be, embodied.

- 4.2. The Designated Area Representative agrees, immediately upon request by the Commonwealth, to deal with all Copies as directed by the Commonwealth, subject to any legal requirement binding on the Designated Area Representative.

5. Notification obligations

- 5.1. Each party agrees to notify the other party immediately, and provide full details, if they become 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 Deed; or
 - b. there has been any other breach of this Deed.
- 5.2. The obligations arising out of this Deed are in addition to any obligations of confidence at common law or equity.

6. Period of confidentiality

- 6.1. Except as otherwise may be agreed by the parties in writing, all Confidential Information shall remain subject to the requirements of this Deed until it becomes available from a legal public source without restriction.

7. Indemnity

- 7.1. 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 Deed.

- 7.2. The right of the Commonwealth to be indemnified under this clause 7 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. Survival

- 8.1. This Deed will survive the termination or expiry of any deed, agreement or arrangement of any kind between the Commonwealth and the Designated Area Representative relating to the Purpose.

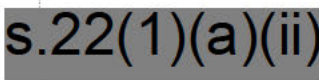
9. Applicable law

- 9.1. This Deed is to be construed in accordance with, and any matter related to it is to be governed by, the law of the Australian Capital Territory.
- 9.2. The parties submit to the jurisdiction of the courts of the Australian Capital Territory.

Signing Page for Designated Area Migration Agreement - Confidentiality Deed

Executed as a Deed

SIGNED SEALED AND DELIVERED for and on behalf of the Commonwealth of Australia represented by the Department of Home Affairs, by its duly authorised delegate in the presence of:		
		s.22(1)(a)(ii)
Name of authorised officer		Signature of authorised officer
s.22(1)(a)(ii)	s.22(1)(a)(ii)	
Name of Witness	Signature of Witness	

SIGNED SEALED AND DELIVERED for and on behalf of the Designated Area Representative by its duly authorised officer in the presence of:		
		s.22(1)(a)(ii)
Name of authorised officer		Signature of authorised officer
s.22(1)(a)(ii)	s.22(1)(a)(ii)	
Name of Witness	Signature of Witness	

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 Alex Hawke MP Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs in the presence of



[Signature of authorised officer]

Date of signing: 14 / 12 / 21
dd/mm/yyyy

Alex Hawke
[Print name of authorised officer]

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

[Print name of witness]

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

[Signature of witness]

Date of signing: 14 / 12 / 2021
dd/mm/yyyy

SIGNED SEALED AND DELIVERED for and on behalf of the Greater Shepparton City Council ABN 59 835 329 843 in relation to the Goulburn Valley Region, 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 of authorised officer]

Date of signing: 8 / 12 / 2021
dd/mm/yyyy

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

[Print name of Witness]

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

[Signature of Witness]

Date of signing: 8 / 12 / 2021
dd/mm/yyyy



Australian Government
Department of Home Affairs

GOULBURN VALLEY DAMA
LABOUR AGREEMENT

Under the *Migration Act 1958*

Between

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

and

XXXXXXXXXXXXXXXXXX

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Labour Agreement

Parties

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

AND

The party specified in **Item 2** of **Schedule 1** (the “Approved Sponsor”). The Approved Sponsor’s particulars are set out in **Item 2** of **Schedule 1**.

Background

- A. This labour agreement (the “Agreement”) is a “labour agreement” as defined in the Migration Regulations.
- B. This Agreement will be administered by the Department of Home Affairs (“the Department”) on behalf of the Commonwealth.
- C. This Agreement sets out the terms and conditions by which the Approved Sponsor may recruit, employ or engage the services of Overseas Workers under conditions specified in the Designated Area Migration Agreement dated 14/12/2021 between the Commonwealth and the Greater Shepparton City Council in relation to the Goulburn Valley DAMA.
- D. This Agreement sets out the terms and conditions by which the Approved Sponsor may recruit, employ or engage the services of Overseas Workers who are intended to be employed or engaged by the Approved Sponsor as holders of Temporary Skill Shortage (“TSS”), Skilled Employer Sponsored Regional (SESR) or Employer Nomination Scheme (“ENS”) visas in its business undertaking as described in **Item 4** of **Schedule 1**.
- E. The Approved Sponsor has been endorsed by a party to the Goulburn Valley DAMA (“the Designated Area Representative”).
- F. The Approved Sponsor is an “approved sponsor” as defined in the Migration Act by virtue of entering into this Agreement.

Operative Part

1. Definitions

1.1 In this Agreement:

Goulburn Valley DAMA means the Designated Area Migration Agreement between the Commonwealth and the Greater Shepparton City Council in relation to the Goulburn Valley Agreement, its schedules and attachments and any documents incorporated by reference in that agreement, dated 14/12/2021.

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 means this labour agreement, its schedules and attachments and any documents incorporated by reference in this labour agreement.

ANZSCO has the same meaning as in the Migration Regulations.

AQF means the Australian Qualifications Framework.

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 Day means a day that is not a Saturday, Sunday or public holiday in the Australian Capital Territory or the State/Territory in which the Designated Area is located.

Cease Date means the cease date specified in **Item 5 of Schedule 1**.

Commonwealth includes the Department or the Minister, as applicable.

Concessions means any variations to the requirements prescribed in the Migration Legislation in relation to the approval of a Nomination and the grant of a TSS, SESR or ENS visa.

Confidential Information in relation to a party, means information that is:

- (a) by its nature capable of being protected in law or equity as confidential;
- (b) designated by a party as confidential in **Item 6 of Schedule 1**; or
- (c) in the case of the Commonwealth's Confidential Information, information the Approved Sponsor knows or ought to know is confidential;

but does not include information:

- (d) which is or becomes public knowledge other than by breach of the Contract or any other confidentiality obligations; or
- (e) that has been independently developed or acquired without reference to the other party's Confidential Information.

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

Department means the Department of Home Affairs.

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

Earnings and Annual Earnings have the meanings given in **Schedule 5** of this Agreement.

Effective Date means:

- (a) the date (if any) specified in **Item 5 of Schedule 1**;
- (b) if no such date is specified, the date on which this Agreement is signed by the parties, or if signed on separate days, the date of the last signature.

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

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 2**. 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 the 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 performing relevant functions as the Minister under the Migration Legislation.

Nominate means to lodge a nomination in relation to a TSS, SESR or ENS visa under the Migration Legislation.

Nomination means a nomination referred to in section 140GB of the Migration Act or regulation 5.19 of the Migration Regulations.

Nominee means the Overseas Worker identified in a nomination.

Occupations means those occupations specified in **Schedule 2**.

Overseas Worker means the holder of, or an applicant or proposed applicant for, a TSS, SESR or ENS visa.

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

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

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

Workforce means the total number of Australian workers and temporary visa holders engaged by the Approved Sponsor (including as contractors).

Work Health and Safety Legislation means:

- (a) *Work Health and Safety Act 2011* (Cth); and
- (b) *Work Health and Safety Regulations 2011* (Cth); and

any “corresponding WHS law” within the meaning of section 4 of the *Work Health and Safety Act 2011* (Cth) and regulation 6A of the *Work Health and Safety Regulations 2011* (Cth).

Workplace Law means the *Fair Work Act 2009*, and relevant laws of the Commonwealth and of the relevant State or Territory relating to equal employment opportunity, unlawful discrimination and the Work Health and Safety Legislation.

Year means the period of 12 months commencing on the day this Agreement commences, or a period of 12 months commencing on an anniversary of that day.

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. Agreement period

- 3.1 This Agreement commences from the Effective Date.
- 3.2 Unless terminated earlier in accordance with clause 16 of this Agreement, the period of this Agreement ends on the Cease Date.

4. Pre-contractual representations

- 4.1 The Approved Sponsor warrants that the information supplied to the Commonwealth and the Designated Area Representative in its application to enter into this Agreement, upon which the Commonwealth and the Designated Area Representative have relied, was true and correct.

5. Acknowledgements

- 5.1 The parties acknowledge and agree that:
 - (a) the Commonwealth may, in its absolute discretion, by notice in writing, at any time:
 - (i) amend or update the Occupations, Maximum Numbers, and Concessions for the purposes of this Agreement; or
 - (ii) amend, update or replace any other content in the Schedules of this Agreement;
 - (b) nothing in this Agreement fetters or detracts from the discretions, functions or powers of the Commonwealth under Law.

Nomination of Overseas Workers for TSS, SESR and ENS visas

6. Nomination requirements

- 6.1 The Approved Sponsor may only nominate a Nominee up to the nomination ceiling specified in **Schedule 2** for an occupation:
 - (a) outlined in **Schedule 2**; and
 - (b) to be performed in a location listed in **Schedule 2**.
- 6.2 If the Approved Sponsor wishes to increase the nomination ceilings in any year during the period of this Agreement as set out in **Schedule 2** to this Agreement, they must provide the Commonwealth with the information detailed in **Schedule 11**.
- 6.3 The Approved Sponsor acknowledges and agrees that there is no guarantee that additional nominations and increases in the nomination ceilings will be agreed to, and that the Commonwealth reserves the right to make the final decision as to the Nomination Ceiling for each year of the Agreement.
- 6.4 Before they nominate a Nominee under this Agreement, the Approved Sponsor must take all

reasonable steps to ensure that:

- (a) it recruits suitably skilled Australians who are available, including undertaking labour market testing where specified in **Schedule 8**;
- (b) the Nominee will be able to meet any requirements outlined in the **Schedules** of this Agreement; and
- (c) the Nominee will hold relevant licensing/registration or certification where required for the Nominated occupation, when performing the occupation.

6.5 In addition to the nomination requirements outlined in the Migration Regulations, the Approved Sponsor must demonstrate, through written evidence, when lodging a nomination, that:

- (a) the Nominee will be engaged full time;
- (b) the Approved Sponsor will meet the requirements set out in **Schedule 5** (which relate to TSMIT, Annual Market Salary Rate and Annual Earnings); and
- (c) the Nominee will receive terms and conditions of employment which are no less favourable than the terms or conditions of employment that are, or would be provided, to an Australian performing equivalent work in the Approved Sponsor's workplace at the same location.

6.6 The Approved Sponsor must comply with any additional requirements for nomination in the Schedules to this Agreement.

7. Visa requirements for TSS, SESR and ENS visas

7.1 The Approved Sponsor acknowledges that as part of the TSS, SESR and ENS visa application process, the Nominee will need to meet the criteria for grant of a visa as outlined in the Migration Regulations. In addition to health and character requirements, this may include requirements that the Nominee:

- (a) has the sufficient skills, experience and English proficiency to perform the Nominated occupation;
- (b) can demonstrate this where requested by the Minister; and
- (c) meets any other visa requirements in the Schedules to this Agreement.

8. Visa period

TSS visa

8.1 The Approved Sponsor acknowledges and agrees that when nominating an Overseas Worker for a TSS visa, the Approved Sponsor will select a proposed period of stay of up to four (4) years.

SESR visa

8.2 The Approved Sponsor acknowledges and agrees that when nominating an Overseas Worker for a SESR visa, the Approved Sponsor will select a proposed period of stay of up to five (5) years.

9. Sponsorship obligations

9.1 The Approved Sponsor must satisfy its sponsorship obligations in the Migration Regulations as varied, if at all, in **Schedule 9**.

9.2 The Approved Sponsor must satisfy the additional sponsorship obligations specified in **Schedule 10**.

9.3 The Approved Sponsor must comply with Workplace Law, the Migration Legislation and any other applicable immigration laws regulating employment of the Approved Sponsor's sponsored Overseas Workers.

9.4 Clause 9 survives the termination or expiration of this Agreement.

10. Reporting

- 10.1 The Approved Sponsor must provide a report within 30 days following a request by the Commonwealth. This report must include the items outlined at **Schedule 11**.

11. Review

- 11.1 This Agreement will be reviewed after three (3) years and/or on an annual basis where additional Nominations increasing the Nomination Ceilings are sought by the Approved Sponsor.

12. Audits of this Agreement

- 12.1 The Commonwealth may, from time to time, audit the Approved Sponsor's performance of its obligations in this Agreement and the Approved Sponsor will cooperate with the Commonwealth for the purpose of such audits.
- 12.2 Without limiting the generality of the preceding clause, the Approved Sponsor will:
- (a) liaise with and provide information and assistance to the Commonwealth as reasonably required by the Commonwealth for the purposes of such audits; and
 - (b) comply with the Commonwealth's reasonable requests or requirements for the purposes of such audits.
- 12.3 Unless specified otherwise in the Migration Legislation, the Approved Sponsor will retain all records generated for the purposes of this Agreement for seven (7) years from the date of expiration or termination of this Agreement.
- 12.4 Clause 12 survives the termination or expiration of this Agreement.

Miscellaneous Provisions

13. Notices

- 13.1 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.
- 13.2 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 clause 13.
- 13.3 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.

14. Variation and entire agreement

- 14.1 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.
- 14.2 Unless otherwise specified in this Agreement, a provision of this Agreement can only be varied by a written document executed by or on behalf of all parties.

15. Suspension

- 15.1 The Commonwealth may, in its absolute discretion, suspend this Agreement, in whole or in part, including in situations where Adverse Information regarding the Approved Sponsor has been received, is being investigated and is not considered reasonable to disregard.
- 15.2 The Approved Sponsor and other third parties are not entitled to any compensation or payments as a result of the Commonwealth suspending this Agreement under clause 15.1.
- 15.3 Where the Commonwealth suspends this Agreement in accordance with clause 15.1 the Commonwealth will notify the Approved Sponsor in writing.
- 15.4 For the avoidance of doubt, where the Commonwealth notifies that this Agreement has been suspended in accordance with clauses 15.1 and 15.3, the suspension shall take effect at the time the notice is taken to be received by the Approved Sponsor, in accordance with clause 13.
- 15.5 Where the Commonwealth suspends this Agreement in accordance with clause 15.1, the Commonwealth may, in determining the order for considering and disposing of nomination applications and visa applications, give the lowest priority to applications made under this Agreement.
- 15.6 After a period of suspension, the Commonwealth may, at its absolute discretion, choose to resume this Agreement by notifying the Approved Sponsor in writing.
- 15.7 Where the Commonwealth chooses to resume this Agreement in accordance with clause 15.6 and notifies the Approved Sponsor, the Agreement will resume at the time the notice is taken to be received, in accordance with clause 13.
- 15.8 For the avoidance of doubt, any period of suspension will have no impact on and will not amend the period of this Agreement. The period of this Agreement will remain as specified in **Item 5 of Schedule 1**.

16. Termination

- 16.1 The Commonwealth may, in its absolute discretion, terminate this Agreement at any time including for reasons of public interest where:
 - (a) there is a change in policy or a change in government which results in a change in policy settings; or
 - (b) Adverse Information has been received by the Commonwealth regarding the Approved Sponsor and it is not considered reasonable to disregard.
- 16.2 The Approved Sponsor will not be entitled to any compensation or payments as a result of the Commonwealth terminating this Agreement under clause 16.1.
- 16.3 Otherwise, if the Commonwealth contends that the Approved Sponsor is in default under this Agreement, the Commonwealth may, without prejudice to any right of action or remedy which has accrued or which may accrue (including the Commonwealth's entitlement to terminate in accordance with clause 16.1):
 - (a) suspend this Agreement in whole or in part; and
 - (b) serve notice on the Approved Sponsor, advising that this Agreement is suspended and requiring the Approved Sponsor to rectify to the satisfaction of the Commonwealth, those aspects of the Approved Sponsor's performance which are of concern to the Commonwealth; or
 - (c) terminate this Agreement without prejudice to any right of action or remedy which has accrued or which may accrue.

- 16.4 If the Approved Sponsor is in breach of a sponsorship obligation in the Migration Legislation the Approved Sponsor will be taken to be in default under this Agreement as if the statutory obligation was a contractual obligation of the Approved Sponsor.
- 16.5 For the avoidance of doubt, a breach of the Approved Sponsor's warranty given in clause 4.1 with respect to pre-contractual information, will entitle the Commonwealth to suspend this Agreement and serve a notice under clause 15.3 and/or to take any other contractual redress in accordance with this Agreement.
- 16.6 A party may, in its discretion, terminate this Agreement early by giving 28 days' notice to the other party, whereupon this Agreement will be terminated with effect 28 days after the notice of termination is served. A party serving a notice of termination under this clause:
- (a) need not specify a reason for serving the notice;
 - (b) may withdraw the notice before the 28 days have elapsed; and
 - (c) will not be liable to compensate the other party for costs or damages that may arise from the early termination.
- 16.7 For the avoidance of doubt if this Agreement is terminated for any reason, or for no reason:
- (a) the Approved Sponsor's approval as a sponsor for the purposes of this Agreement will thereby be automatically terminated; and
 - (b) visas granted pursuant to this Agreement will be subject to the operation of the Migration Legislation.
- 16.8 A waiver by a party in respect of any breach of a condition or provision of this Agreement will not be deemed to be a waiver in respect of any continuing or subsequent breach of that provision, or breach of any other provision. The failure of a party to enforce at any time any of the provisions of this Agreement will in no way be interpreted as a waiver of such provision.

17. Adverse Information

- 17.1 The Sponsor is required to disclose to the Department Adverse Information about the Sponsor or any persons associated with the Sponsor.
- 17.2 The Sponsor is required to disclose such Adverse Information to the Department, as soon as practicable, after it becomes aware of such information.
- 17.3 Unless otherwise agreed, the Sponsor must respond to any notices in the timeframe requested in the relevant notice (including any requests for information included in the notices) issued by the Department in relation to Adverse Information that the Department has become aware of, or Adverse Information that the Department reasonably believes or suspects to exist and should be disclosed.
- 17.4 "Associated with" has the same meaning as in regulation 1.13B of the *Migration Regulations 1994*.

18. Sanctions

- 18.1 Instead of terminating this Agreement:
- (a) the Commonwealth may, in its absolute discretion bar the Approved Sponsor, for a specified period, from making further nominations under this Agreement, or
 - (b) the Minister may, in his or her absolute discretion, give the lowest processing priority to nomination applications and visa applications made under this Agreement.
- 18.2 The Commonwealth may, in its absolute discretion, instead of terminating this Agreement or in addition to terminating this Agreement, take action against the Approved Sponsor for a breach of contract to recover damages and/or for injunctive relief.

- 18.3 The Commonwealth may, in its absolute discretion, instead of taking any enforcement action under this Agreement or in addition to taking such enforcement action, pursue a civil penalty or issue an infringement notice under the Migration Legislation for failing to satisfy a sponsorship obligation.

19. Relationship between the parties

- 19.1 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.
- 19.2 A party cannot in any way or for any purpose:
- (a) bind another party; or
 - (b) contract in the name of another party.
- 19.3 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.
- 19.4 If the Approved Sponsor is constituted by more than one legal entity (such as a partnership or an unincorporated association), each of those legal entities will be jointly and severally liable for the performance of all of the Approved Sponsor's obligations under this Agreement.

20. Assurances, counterparts and assignment

- 20.1 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.
- 20.2 This Agreement may be executed in any number of counterparts.
- 20.3 A party cannot assign or otherwise transfer its rights under this Agreement without the prior written consent of the other party.

21. Dispute resolution

- 21.1 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;
 - (c) the parties must allow 28 days from notification of the dispute to reach a resolution or to agree to refer the dispute to mediation in accordance with, and subject to, the Institute of Arbitrators and Mediators Australia Mediation Rules or some other form of alternative dispute resolution procedure agreed to in writing by the Parties; and
 - (d) in the event that:
 - (i) the Parties have attended mediation, or some other form of alternative dispute resolution procedure; and
 - (ii) no written settlement agreement is executed within 15 Business Days (or such extended time as the Parties may agree in writing before the expiration of the 15 Business days) of the conclusion of the mediation or some other form of alternative dispute resolution procedure;
 then either party may commence legal proceedings or terminate this Agreement.
- 21.2 The Parties acknowledge that the Administrative Appeals Tribunal may have jurisdiction to review decisions in relation to nomination applications and visa applications. This Agreement does not abrogate any rights in relation to a merits review by the Administrative Appeals Tribunal.

22. Confidential information and information sharing

- 22.1 If a party's information is specified as Confidential Information in **Item 6 of Schedule 1**, the other party will not disclose the information without the first party's prior written consent, except when disclosure of the information is required by law, statutory or portfolio duties.
- 22.2 The Approved Sponsor consents to information concerning it which is relevant to the operation of this Agreement being shared by the Commonwealth with:
- (a) State or Territory government agencies in the State or Territory in which the Approved Sponsor conducts business, where those agencies have regulatory or other relevant interests in the operation of this Agreement;
 - (b) Commonwealth agencies with regulatory or other relevant interests in the operation of this Agreement.
- 22.3 The Approved Sponsor will allow the disclosure of information related to this Agreement for various reporting and Commonwealth disclosure obligations. These disclosures include:
- (a) disclosure of procurement information for the Commonwealth's annual reporting purposes;
 - (b) disclosure to the Parliament and its committees, as appropriate, in line with the Government Guidelines for Official Witnesses before Parliamentary Committees and Related Matters;
 - (c) disclosure of information consistent with the *Freedom of Information Act 1982*;
 - (d) disclosure of discoverable information that is relevant to a case before a court; and
 - (e) disclosure of information as required under other legislation or Commonwealth policy.
- 22.4 The Approved Sponsor acknowledges and agrees that the Commonwealth will publish information on its website regarding this Agreement, with more sensitive business information contained in labour agreement requests and agreements, as specified at **Item 6 of Schedule 1** to remain confidential.
- 22.5 The Approved Sponsor must comply with any reasonable request by the Commonwealth for information to enable the Commonwealth to meet its obligations in this Agreement.
- 22.6 Clause 22 survives the termination or expiration of this Agreement.

23. Fettering and publishing

- 23.1 Nothing in this Agreement fetters or detracts from the Commonwealth's discretions, functions or powers under the Migration Legislation, Workplace Law or other relevant Commonwealth laws.
- 23.2 In the event the Commonwealth has published an outline of this Agreement, the published outline is an invitation to treat with prospective sponsors and is not an offer to enter into contractual relations with any such sponsor on the basis of the published outline.
- 23.3 The Commonwealth may grant or refuse to grant consent, in its absolute discretion, to any application by the Approved Sponsor for consent to a change in control of the Approved Sponsor that may be inimical to the Approved Sponsor's capacity to perform its obligations under this Agreement, and the Commonwealth may attach such conditions on a consent as the Commonwealth sees fit.

24. Legal expenses

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

25. Survival after termination

- 25.1 Any provision of this Agreement which expressly or by implication from its nature is intended to survive the termination or expiration of this Agreement and any rights arising on termination or expiration will survive.

26. Governing law and jurisdiction

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

27. Indemnity

- 27.1 The Approved Sponsor agrees to indemnify the Commonwealth from and against any:
- (a) cost or liability incurred by the Commonwealth; or
 - (b) 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:
- (c) any act or omission by the Approved Sponsor or its Personnel in connection with this Agreement; or
 - (d) any breach by the Approved Sponsor of its obligations or warranties under this Agreement;
- irrespective of whether there was fault on the part of the person whose conduct gave rise to that liability, loss or damage, or loss or expense.
- 27.2 The Approved Sponsor's liability to indemnify the Commonwealth under clause 27.1 will be reduced proportionately to the extent that any breach of this Agreement by the Commonwealth or any act or omission involving fault on the part of the Commonwealth contributed to the relevant cost, liability, loss, damage, or expense.
- 27.3 The right of the Commonwealth to be indemnified under clause 27.1 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.
- 27.4 In clause 27 "Personnel" means a party's officers, employees, agents, contract staff or professional advisers engaged in, or in relation to, the performance or management of this Agreement.
- 27.5 Clause 27 will survive six (6) years from the expiration or termination of this Agreement.

28. Severability, Waiver

- 28.1 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.
- 28.2 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.

29. Conflict of Interest

- 29.1 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.
- 29.2 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.

Schedule 1 Particulars

Item 1 Commonwealth Particulars

Name: Department of Home Affairs

Business Address: 6 Chan Street, BELCONNEN ACT 2617

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

Email Address: s.22(1)(a)(ii) [@homeaffairs.gov.au](mailto:s.22(1)(a)(ii)@homeaffairs.gov.au)

Contact Officer: Director, Labour Agreement Section

Item 2 The Approved Sponsor's Particulars

Name:

ACN:

ABN:

Business Structure:

Business Address:

Telephone Number:

Email Address:

Contact Officer:

Item 3 The Designated Area

Goulburn Valley Region covered by this Agreement: Goulburn Valley Region comprising the Victorian Local Government Areas of Greater Shepparton, Moira and Campaspe. Specifically this includes the following postcodes and postcode ranges:

3610	3559	3635-3641
3614	3561-3566	3644
3616-3618	3572-3573	3646
3629-3631	3612	3649
3633-3634	3620-3624	3727-3728
3647		3730

Item 4 The Approved Sponsor's Business

Industry Segment:

Item 5 Commencement and period

Effective Date: The date signed by the Commonwealth being the last party to sign the Agreement

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

Item 6 Confidential Information of Approved Sponsor

Schedule 2 Occupations, Nomination Ceiling and Location

Item 2.1 Maximum Number of approved Nominations

The table below outlines the occupations that can be nominated under this Agreement. It also specifies the Maximum Number of approved Nominations (i.e. ceiling) per year for these Occupations, and where the Nominated positions are based (i.e. location of work).

Only occupations approved in Schedule 3 of the DAMA Head Agreement, endorsed by the DAR can be included in this template. Occupations in the below tables not approved under the current DAMA/DoV or occupations approved under the DAMA/DOV but not in the tables below should be deleted and the occupation escalated with the ELI.

In the tables below, add nomination ceilings under the appropriate visa (TSS/SESR/ENS) as per the delegate's decision on the Labour Agreement request. Where there is no ceiling in a particular year for an occupation covered under this agreement, this should be reflected as "0" in the relevant year.

All occupations approved under the agreement should be listed in all 3 (TSS/SESR/ENS) tables. Where there is no approved Nomination Ceiling for a particular subclass, the occupation should still be listed in the table with "0" in the Nomination columns for the occupation.

Where an occupation is **not** approved, the occupation row should be **removed** in full.

Occupations under the SESR and ENS tables must be approved for a PR pathway under the head agreement. The occupations included in this template in the SESR and ENS tables are reflective of this requirement and therefore no occupation should be added to this list.

TSS Nomination Ceilings

ANZSCO or 6 digit code	Occupation	Nomination Ceilings					Location of Work
		Year 1	Year 2	Year 3	Year 4	Year 5	
	NIL	0	0	0	0	0	
221111	Accountant (General)	X	X	X	X	X	Location/s within Schedule 1, Item 3
423111	Aged or Disabled Carer						
234112	Agricultural Scientist						
311111	Agricultural Technician						
362212	Arborist						
321111	Automotive Electrician						
351311	Chef						
233211	Civil Engineer						
312212	Civil Engineering Technician						
712915	Concrete Pump Operator						
712111	Crane, Hoist or Lift Operator						

ANZSCO or 6 digit code	Occupation	Nomination Ceilings					Location of Work
		Year 1	Year 2	Year 3	Year 4	Year 5	
321212	Diesel Motor Mechanic						
251111	Dietician						
411712	Disabilities Services Officer						
241111	Early Childhood (Pre- Primary School) Teacher						
341111	Electrician (General)						
411411	Enrolled Nurse						
222311	Financial Investment Advisor						
851299	Food Trades Assistants (nec)						
721311	Forklift Driver						
841211	Fruit or Nut Farm Worker						
841212	Fruit or Nut Picker						
132311	Human Resource Manager						
224999	Information and Organisation Professionals (nec)						
221112	Management Accountant						
831211	Meat Boner and Slicer						
832114	Meat Packer						
831311	Meat Processor						
312512	Mechanical Engineering Technician						
251211	Medical Diagnostic Radiographer						
322311	Metal Fabricator						
321211	Motor Mechanic (General)						
252411	Occupational Therapist						
332211	Painting Trades Worker						
311216	Pathology Collector						
252511	Physiotherapist						

ANZSCO or 6 digit code	Occupation	Nomination Ceilings					Location of Work
		Year 1	Year 2	Year 3	Year 4	Year 5	
252611	Podiatrist						
839312	Product Grader						
511112	Program or Project Administrator						
254414	Registered Nurse (Community Health)						
254415	Registered Nurse (Critical Care and Emergency)						
254422	Registered Nurse (Mental Health)						
142111	Retail Manager (General)						
621511	Retail Supervisor						
334115	Roof Plumber						
131112	Sales and Marketing Manager						
225411	Sales Representative (Industrial Products)						
241411	Secondary School Teacher						
831212	Slaughterer						
253311	Specialist Physician (General Medicine)						
233214	Structural Engineer						
133611	Supply and Distribution Manager						
232212	Surveyor						
733111	Truck Driver (General)						
242211	Vocational Education Teacher						
431511	Waiter						

SESR Nomination Ceilings

ANZSCO or 6 digit code	Occupation	Nomination Ceilings					Location of Work
		Year 1	Year 2	Year 3	Year 4	Year 5	
	NIL	0	0	0	0	0	

ANZSCO or 6 digit code	Occupation	Nomination Ceilings					Location of Work
		Year 1	Year 2	Year 3	Year 4	Year 5	
221111	Accountant (General)	X	X	X	X	X	Location/s within Schedule 1, Item 3
423111	Aged or Disabled Carer						
234112	Agricultural Scientist						
311111	Agricultural Technician						
362212	Arborist						
321111	Automotive Electrician						
351311	Chef						
233211	Civil Engineer						
312212	Civil Engineering Technician						
712915	Concrete Pump Operator						
712111	Crane, Hoist or Lift Operator						
321212	Diesel Motor Mechanic						
251111	Dietician						
411712	Disabilities Services Officer						
241111	Early Childhood (Pre- Primary School) Teacher						
341111	Electrician (General)						
411411	Enrolled Nurse						
222311	Financial Investment Advisor						
851299	Food Trades Assistants (nec)						
721311	Forklift Driver						
841211	Fruit or Nut Farm Worker						
841212	Fruit or Nut Picker						
132311	Human Resource Manager						
224999	Information and Organisation Professionals (nec)						
221112	Management Accountant						
831211	Meat Boner and Slicer						

ANZSCO or 6 digit code	Occupation	Nomination Ceilings					Location of Work
		Year 1	Year 2	Year 3	Year 4	Year 5	
832114	Meat Packer						
831311	Meat Processor						
312512	Mechanical Engineering Technician						
251211	Medical Diagnostic Radiographer						
322311	Metal Fabricator						
321211	Motor Mechanic (General)						
252411	Occupational Therapist						
332211	Painting Trades Worker						
311216	Pathology Collector						
252511	Physiotherapist						
252611	Podiatrist						
839312	Product Grader						
511112	Program or Project Administrator						
254414	Registered Nurse (Community Health)						
254415	Registered Nurse (Critical Care and Emergency)						
254422	Registered Nurse (Mental Health)						
142111	Retail Manager (General)						
621511	Retail Supervisor						
334115	Roof Plumber						
131112	Sales and Marketing Manager						
225411	Sales Representative (Industrial Products)						
241411	Secondary School Teacher						
831212	Slaughterer						
253311	Specialist Physician (General Medicine)						
233214	Structural Engineer						

ANZSCO or 6 digit code	Occupation	Nomination Ceilings					Location of Work
		Year 1	Year 2	Year 3	Year 4	Year 5	
133611	Supply and Distribution Manager						
232212	Surveyor						
733111	Truck Driver (General)						
242211	Vocational Education Teacher						
431511	Waiter						

ENS Nomination Ceilings

ANZSCO or 6 digit code	Occupation	Nomination Ceilings					Location of Work
		Year 1	Year 2	Year 3	Year 4	Year 5	
	NIL	0	0	0	0	0	
221111	Accountant (General)	X	X	X	X	X	Location/s within Schedule 1, Item 3
423111	Aged or Disabled Carer						
234112	Agricultural Scientist						
311111	Agricultural Technician						
362212	Arborist						
321111	Automotive Electrician						
351311	Chef						
233211	Civil Engineer						
312212	Civil Engineering Technician						
712915	Concrete Pump Operator						
712111	Crane, Hoist or Lift Operator						
321212	Diesel Motor Mechanic						
251111	Dietician						
411712	Disabilities Services Officer						
241111	Early Childhood (Pre-Primary School) Teacher						
341111	Electrician (General)						
411411	Enrolled Nurse						
222311	Financial Investment Advisor						

ANZSCO or 6 digit code	Occupation	Nomination Ceilings					Location of Work
		Year 1	Year 2	Year 3	Year 4	Year 5	
851299	Food Trades Assistants (nec)						
721311	Forklift Driver						
841211	Fruit or Nut Farm Worker						
841212	Fruit or Nut Picker						
132311	Human Resource Manager						
224999	Information and Organisation Professionals (nec)						
221112	Management Accountant						
831211	Meat Boner and Slicer						
832114	Meat Packer						
831311	Meat Processor						
312512	Mechanical Engineering Technician						
251211	Medical Diagnostic Radiographer						
322311	Metal Fabricator						
321211	Motor Mechanic (General)						
252411	Occupational Therapist						
332211	Painting Trades Worker						
311216	Pathology Collector						
252511	Physiotherapist						
252611	Podiatrist						
839312	Product Grader						
511112	Program or Project Administrator						
254414	Registered Nurse (Community Health)						
254415	Registered Nurse (Critical Care and Emergency)						
254422	Registered Nurse (Mental Health)						

ANZSCO or 6 digit code	Occupation	Nomination Ceilings					Location of Work
		Year 1	Year 2	Year 3	Year 4	Year 5	
142111	Retail Manager (General)						
621511	Retail Supervisor						
334115	Roof Plumber						
131112	Sales and Marketing Manager						
225411	Sales Representative (Industrial Products)						
241411	Secondary School Teacher						
831212	Slaughterer						
253311	Specialist Physician (General Medicine)						
233214	Structural Engineer						
133611	Supply and Distribution Manager						
232212	Surveyor						
733111	Truck Driver (General)						
242211	Vocational Education Teacher						
431511	Waiter						

Note:

- The Minister may vary the Maximum Number of approved Nominations and Occupations at any time, with Maximum Numbers subject to annual review.
- If the Approved Sponsor wishes to increase the Maximum Numbers specified above, they must seek a variation to this Agreement as outlined at clause 6.2 to this Agreement.

Item 2.2 Caveats not applicable

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 3 Occupations not in ANZSCO

There are no non-ANZSCO occupations in this Agreement.

Schedule 4 Qualifications and Experience

The following skills, qualifications, experience and employment background requirements apply to the occupations listed in the tables below in relation to subclass 482 Temporary Skill Shortage (TSS) and subclass 494 Skilled Employer Sponsored Regional (Provisional) (SESR) visas and where eligible, under the permanent residence pathway, subclass 186 Employer Nomination Scheme (ENS) visas.

Skills Assessments

Qualifications are to be assessed and certified by the skills assessing authority 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.

For occupations that appear on an eligible list of skilled occupations a skills assessment is only required in accordance with the relevant standard visa programs set out under Migration law.

For the SESR visa program, a skills assessment is required under the Labour Agreement Stream if it is required under the Employer Sponsored Stream. The skills assessment, including the relevant skills assessment authority, will be in accordance with the relevant legislative instrument specified under the Employer Sponsored stream.

For all other occupations listed in this agreement, applicants must undergo a skills assessment by **VETASSESS** unless specified in the table below:

Table: Occupations with specified skills assessing authorities

ANZSCO or 6 digit Code	Occupation	ANZSCO Skill Level	Skills Assessing Authority
831211	Meat Boner and Slicer	4	MINTRAC
831212	Slaughterer	4	MINTRAC

Work Experience

Work experience to fulfil visa requirements must be:

- relevant to the nominated occupation and at the required skill level*;
- 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
- undertaken in the last five (5) years.

Where specified below, work experience to fulfil visa requirements, can be undertaken concurrently with work experience used to substitute qualifications, provided the work experience was at the same skilled level*.

*For Skill Level 5 occupations accessing a permanent residence pathway under **Schedule 7** of this agreement, work experience undertaken in the skill level 5 occupation can be counted towards the higher skill level occupation under the TSS program provided it is assessed as genuine and relevant experience.

Items listed below will only be included in the agreement where they are relevant/contain an occupation approved under this agreement.

*If an Item does **not** include an occupation approved under this agreement the entire item should be deleted in full from the Item heading until the next Item heading including the occupation tables.*

*If an Item **does** include an occupation approved under this agreement renumber the item numbers so that they are sequential commencing from Item 4.1. If you have an occupation in a second item this will become Item 4.2. You will also need to delete occupation rows in the relevant table under the item where they are not approved for this Agreement.*

Item 4.X Occupations on an eligible list of skilled occupations

For the occupations listed in the table under this Item, which are on an eligible list 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, 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 (unless an exception is outlined below).

Skills Assessment

Hold a relevant skills assessment if required under the Employer Sponsored Stream of the SESR program or standard TSS or ENS programs applicable to the visa being applied for.

Skills and Qualifications

Meet the skill level as defined in ANZSCO.

Work Experience

Meet the work experience requirements under the standard TSS, SESR or ENS program; or

TSS:

- Have at least one (1) year of relevant work experience, where the relevant AQF qualification was undertaken in Australia.

SESR:

- Have at least two (2) years of relevant work experience.

ENS:

- Have at least three (3) years of relevant work experience.

Table: Occupations on an eligible list of skilled occupations

ANZSCO or 6 digit Code	Occupation	ANZSCO Skill Level
221111	Accountant (General)	1
234112	Agricultural Scientist	1
311111	Agricultural Technician	2
362212	Arborist	3
321111	Automotive Electrician	3
351311	Chef	2
233211	Civil Engineer	1
312212	Civil Engineering Technician	2
321212	Diesel Motor Mechanic	3
251111	Dietician	1
411712	Disabilities Services Officer	2
241111	Early Childhood (Pre-Primary School) Teacher	1
341111	Electrician (General)	3
411411	Enrolled Nurse	2
222311	Financial Investment Advisor	1

ANZSCO or 6 digit Code	Occupation	ANZSCO Skill Level
132311	Human Resource Manager	1
224999	Information and Organisation Professionals (nec)	1
221112	Management Accountant	1
312512	Mechanical Engineering Technician	2
251211	Medical Diagnostic Radiographer	1
322311	Metal Fabricator	3
321211	Motor Mechanic (General)	3
252411	Occupational Therapist	1
332211	Painting Trades Worker	3
311216	Pathology Collector	3
252511	Physiotherapist	1
252611	Podiatrist	1
511112	Program or Project Administrator	2
254414	Registered Nurse (Community Health)	1
254415	Registered Nurse (Critical Care and Emergency)	1
254422	Registered Nurse (Mental Health)	1
142111	Retail Manager (General)	2
334115	Roof Plumber	3
131112	Sales and Marketing Manager	1
225411	Sales Representative (Industrial Products)	1
241411	Secondary School Teacher	1
253311	Specialist Physician (General Medicine)	1
233214	Structural Engineer	1
133611	Supply and Distribution Manager	1
232212	Surveyor	1
242211	Vocational Education Teacher	1

Item 4.X ANZSCO Skill Level 4 Occupations not on an eligible list of skilled occupations

For the occupations listed in the table under this Item, which are requested under this Agreement but are not on an 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, SESR or ENS visa made under the Migration Legislation.

Skills Assessment

Hold a relevant skills assessment for the nominated occupation.

Skills and Qualifications

Meet the skill level as defined in ANZSCO including where work experience can substitute the formal qualification.

This work experience can be undertaken concurrently with work experience listed below.

Work Experience

Meet the work experience requirements under the standard TSS, SESR or ENS program; or

TSS:

- Have at least one (1) year of relevant work experience undertaken in Australia.

SESR:

- Have at least two (2) years of relevant work experience.

ENS:

- Have at least three (3) years of relevant work experience.

Table: ANZSCO General Skill Level 4 Occupations

ANZSCO or 6 digit Code	Occupation	ANZSCO Skill Level
423111	Aged or Disabled Carer	4
712915	Concrete Pump Operator	4
712111	Crane, Hoist or Lift Operator	4
721311	Forklift Driver	4
621511	Retail Supervisor	4
733111	Truck Driver (General)	4
431511	Waiter	4

Item 4.X Specified ANZSCO Skill Level 4 – 5 Occupations not on an eligible list of skilled occupations

For the occupations listed in the table under this **Item**, which are requested under this Agreement but are not on an 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, SESR or ENS visa made under the Migration Legislation.

Skills Assessment

Hold a relevant skills assessment for the nominated occupation.

Skills and Qualifications

Meet the skill level as defined in ANZSCO including where work experience can substitute the formal qualification.

This work experience can be undertaken concurrently with work experience listed below.

Work Experience

Meet the work experience requirements under the standard TSS, SESR or ENS program; or

TSS:

- Have at least one (1) year of relevant work experience undertaken in Australia.

SESR:

- Have at least two (2) years of relevant work experience.

ENS:

- Have at least three (3) years of relevant work experience.

Table: Specified ANZSCO Skill Level 4 and 5 Occupations

ANZSCO or 6 digit Code	Occupation	ANZSCO Skill Level
851299	Food Trades Assistants (nec)	5
841211	Fruit or Nut Farm Worker	5
841212	Fruit or Nut Picker	5
831211	Meat Boner and Slicer	4
832114	Meat Packer	5
831311	Meat Processor	5
839312	Product Grader	4
831212	Slaughterer	4

Schedule 5 Concession to the Temporary Skilled Migration Income Threshold (TSMIT)

In relation to the Nomination of Occupations for TSS, SESR and ENS visas, the following additional requirements must be met by an Approved Sponsor.

Under this Schedule:

- ‘Annual Market Salary Rate’ 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.

Choose one or both of the two options below depending on whether or not a concession is approved and delete the option that does not apply.

If only Option 1 applies, delete from the heading “Option 2” until the next Schedule (inclusive of the occupation table).

If only Option 2 applies, delete from the heading “Option 1” down to and including the heading “Option 2”.

Note that the Option titles in yellow highlight should always be deleted.

OPTION 1 – No TSMIT Concession.

Non-concessional occupations

‘Non-concessional occupation’ means an Occupation that may be Nominated under this Agreement but is not specified in a table under this schedule for which a TSMIT Concession applies.

‘Earnings’ has the same meaning as in the regulation 1.03 of the Migration Regulations, which provides that earnings has a meaning affected by regulation 2.57A of 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 Approved Sponsor 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 SESR visa, the nominating Approved Sponsor must meet the same legislative requirements relating to TSMIT, Annual Market Salary Rate and Annual Earnings which would apply if the Overseas Worker were accessing the employer sponsored stream of the standard SESR visa program.

In relation to an Overseas Worker who is identified for a non-concessional occupation in relation to an ENS visa, the nominating Approved Sponsor 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.

OPTION 2 – TSMIT Concession approved.

Concessional occupations

‘Concessional occupation’ means an Occupation specified in the table under this schedule for which a TSMIT concession applies.

In relation to an Overseas Worker who is nominated/identified for a concessional occupation in relation to a TSS, SESR or an ENS visa, in accordance with the applicable concession type set out below, the nominating

Approved Sponsor 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 (for TSMIT concession type 1) or TSMIT (for TSMIT concession type 2).

‘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 an Approved Sponsor’s evidence-based case for the concession to apply.

TSMIT Concession types

Employers may seek endorsement from the Designated Area Representative for one of the following concession types to apply to an Occupation.

	Type 1	Type 2
Monetary Earnings	At least Reduced TSMIT	At least Reduced TSMIT
Non-monetary earnings (food & board)		No more than 10% of TSMIT
Total Annual Earnings	At least Reduced TSMIT	At least TSMIT

Type 1: Reduced TSMIT, and Earnings to include Guaranteed Overtime

‘Reduced TSMIT’ applies.

‘Earnings’ has the same meaning as in the regulation 1.03 of the Migration Regulations, which provides that earnings has a meaning affected by regulation 2.57A of the Migration Regulations, except that it also includes guaranteed overtime where:

- The guaranteed overtime is consistent with standard industry practice within the sector;
- There are equivalent Australians performing equivalent work in the Approved Sponsor’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 Approved Sponsor 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.

When calculating an Overseas Worker’s Annual Earnings, the value of monetary earnings cannot be less than Reduced TSMIT.

Type 2: TSMIT, and Earnings to include Guaranteed Overtime and Non-Monetary and Monetary Benefits

The Annual Earnings must be equal to or greater than TSMIT, and the Annual Earnings may include monetary and non-monetary benefits.

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

For concession type 2, when calculating an Overseas Worker's Earnings, the value of other non-monetary earnings (such as phone, vehicle) cannot exceed 10% of TSMIT.

Table: Occupations to which TSMIT Concessions may apply

Delete Occupations not approved for this Agreement.

*Where a concession has been approved, indicate the concession type (Type 1, or 2) in the right-hand column.
NB an employer may be approved for different concession types for each Occupation.*

ANZSCO or 6 digit Code	Occupation	ANZSCO Skill Level	TSMIT Concession Type
423111	Aged or Disabled Carer	4	
351311	Chef	2	
321212	Diesel Motor Mechanic	3	
411712	Disabilities Services Officer	2	
241111	Early Childhood (Pre-Primary School) Teacher	1	
851299	Food Trades Assistants nec	5	
831211	Meat Boner and Slicer	4	
832114	Meat Packer	5	
831311	Meat Processor	5	
312512	Mechanical Engineering Technician	2	
511112	Program or Project Administrator	2	
254414	Registered Nurse (Community Health)	1	
142111	Retail Manager (General)	2	
131112	Sales and Marketing Manager	1	

ANZSCO or 6 digit Code	Occupation	ANZSCO Skill Level	TSMIT Concession Type
831212	Slaughterer	4	
431511	Waiter	4	

Schedule 6 Concession to English language requirement

Option 1 – Please delete if concession is to be applied

No English language Concessions are available.

Overseas Workers are 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.

Option 2 – Please delete if no concession is to be applied

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.

NB there are two different concessions for English dependent on the occupation being endorsed for this agreement.

Choose one or both of the two options below depending on whether or not an English concession is approved and delete the option that does not apply.

If only Option 1 applies, delete from Option 2 until the next Schedule (inclusive of the occupation table). Number Item relevant to endorsed occupations as Item 6.1 and if occupations in second concession type, number heading Item 6.2

Item 6.X Occupations eligible for English Concession Type 1

For any Occupations not listed in the table/s under this schedule, 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 the Occupations listed under this Item and in the table below, the following English Language concessions apply:

- **TSS and SESR:** overall score of IELTS 5.0 (or equivalent), with no minimum individual band scores (unless registration or licensing requires a higher level of English).
- **ENS:** overall score of IELTS 5.0 (or equivalent), with a minimum IELTS score of 4.0 (or equivalent) for each individual band (unless registration or licensing requires a higher level of English).

Table: Occupations Eligible for English Language Concession Type 1

ANZSCO or 6 digit Code	Occupation	ANZSCO Skill Level
311111	Agricultural Technician	2
362212	Arborist	3
321111	Automotive Electrician	3
712915	Concrete Pump Operator	4

721311	Forklift Driver	4
841211	Fruit or Nut Farm Worker	5
841212	Fruit or Nut Picker	5
831211	Meat Boner and Slicer	4
832114	Meat Packer	5
831311	Meat Processor	5
312512	Mechanical Engineering Technician	2
321211	Motor Mechanic (General)	3
839312	Product Grader	4
334115	Roof Plumber	3
831212	Slaughterer	4
733111	Truck Driver (General)	4

Item 6.X Occupations eligible for English Concession Type 2

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 Occupations not listed in the table/s under this schedule, 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 the Occupations listed under this Item and in the table below, the following English Language concessions apply:

- **TSS, SESR and ENS:** overall score of IELTS 5.0 (or equivalent), with a minimum IELTS score of 4.0 (or equivalent) for each individual band (unless registration or licensing requires a higher level of English).

Table: Occupations Eligible for English Language Concession Type 2

ANZSCO or 6 digit Code	Occupation	ANZSCO Skill Level
234112	Agricultural Scientist	1
132311	Human Resource Manager	1
621511	Retail Supervisor	4
131112	Sales and Marketing Manager	1
225411	Sales Representative (Industrial Products)	1

Schedule 7 Permanent Residency Pathway

Select from Option 1, 2 or 3 depending on whether or not a PR pathway has been approved and delete the option that does not apply.

If only Option 1 applies, delete from the heading "Option 2" until the next Schedule (inclusive of the occupation tables).

If only Option 2 applies, delete "Option 1" and from the heading "Option 3" until the next Schedule (inclusive of the occupation tables).

Note that the Option titles in yellow highlight should always be deleted.

Option 1 – No Permanent Residency Pathway approved – TSS nomination ceilings only.

No Permanent Residency Pathway is approved under this agreement

Option 2 – No permanent pathway approved under LA, endorsed ceilings are for SESR

A Permanent Residency Pathway is available from the SESR visa through the PRSR (subclass 191) visa. This pathway is applied for by an overseas worker independently, and not under the terms of this labour agreement.

Option 3 – PR pathway approved

In the tables below, delete occupations not approved for this Agreement..

Item 7.1 Permanent Residency Pathway

A permanent residency pathway for Overseas Workers may be available through the ENS visa program, where endorsed in writing by the Designated Area Representative, for all Occupations in **Table 7.1** below.

A concession to the age limitation for the ENS and SESR visas will also apply for occupations specified under **Item 7.2**.

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 and requirements outlined in the Migration Legislation):

- (a) The Overseas Worker, at the time of an application for approval of the nomination in relation to an ENS ('the ENS or nomination'), holds a TSS visa granted in connection with this Agreement; and
- (b) The Approved Sponsor's ENS nomination identifies an Occupation in **Table 7.1** that was the subject of the most recently approved TSS visa for the Overseas Worker; and
- (c) The Overseas Worker has been employed on a full-time basis, in the ENS nominated occupation, an occupation in **Table 7.1**, or a closely related occupation that is, within the same ANZSCO 4 digit unit group and also specified in **Table 7.1** of this Agreement; for a period of:
 - (i) At least three (3) years before the ENS nomination is made, for all skill level 1-4 occupations listed in **Table 7.1**;
 - (ii) at least four (4) years before the ENS nomination is made for all skill level 5 occupations listed in **Table 7.1** whereby the overseas worker must be promoted to, or gain employment in a higher skill level occupation, for a period of no less than two (2) years before the ENS nomination is made

The time spent in the earlier Skill Level 5 occupation will count towards the overall four (4) year qualifying period for the permanent visa nomination which must be in a skill level 1-4 occupation listed in **Table 7.1**.
- (d) For the whole time that the Overseas Worker was employed in accordance with paragraph (c), they must have:
 - (i) held a TSS visa granted in connection with this Agreement; and
 - (ii) worked in the Designated Area outlined in **Item 3** of **Schedule 1** of this Agreement

- (e) The Overseas Worker identified in the ENS nomination will be employed on a full-time basis in the position for at least two (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.

Table 7.1: Occupations eligible for permanent residence pathway

ANZSCO or 6 digit Code	Occupation	ANZSCO Skill Level
221111	Accountant (General)	1
423111	Aged or Disabled Carer	4
234112	Agricultural Scientist	1
311111	Agricultural Technician	2
362212	Arborist	3
321111	Automotive Electrician	3
351311	Chef	2
233211	Civil Engineer	1
312212	Civil Engineering Technician	2
712915	Concrete Pump Operator	4
712111	Crane, Hoist or Lift Operator	4
321212	Diesel Motor Mechanic	3
251111	Dietician	1
411712	Disabilities Services Officer	2
241111	Early Childhood (Pre-Primary School) Teacher	1
341111	Electrician (General)	3
411411	Enrolled Nurse	2
222311	Financial Investment Advisor	1
721311	Forklift Driver	4
132311	Human Resource Manager	1
224999	Information and Organisation Professionals nec	1
221112	Management Accountant	1
831211	Meat Boner and Slicer	4
312512	Mechanical Engineering Technician	2
251211	Medical Diagnostic Radiographer	1
322311	Metal Fabricator	3
321211	Motor Mechanic (General)	3
252411	Occupational Therapist	1
332211	Painting Trades Worker	3
311216	Pathology Collector	3
252511	Physiotherapist	1
252611	Podiatrist	1

ANZSCO or 6 digit Code	Occupation	ANZSCO Skill Level
839312	Product Grader	4
511112	Program or Project Administrator	2
254414	Registered Nurse (Community Health)	1
254415	Registered Nurse (Critical Care and Emergency)	1
254422	Registered Nurse (Mental Health)	1
142111	Retail Manager (General)	2
621511	Retail Supervisor	4
334115	Roof Plumber	3
131112	Sales and Marketing Manager	1
225411	Sales Representative (Industrial Products)	1
241411	Secondary School Teacher	1
831212	Slaughterer	4
253311	Specialist Physician (General Medicine)	1
233214	Structural Engineer	1
133611	Supply and Distribution Manager	1
232212	Surveyor	1
733111	Truck Driver (General)	4
242211	Vocational Education Teacher	1
431511	Waiter	4
841211	Fruit or Nut Farm Worker	5
841212	Fruit or Nut Picker	5
851299	Food Trades Assistants nec	5
831311	Meat Processor	5
832114	Meat Packer	5

Item 7.2 Age Concession for ENS and SESR

Select from Option 1 or 2 depending on whether or not a concession has been approved and delete the option that does not apply.

If only Option 1 applies, delete from the heading "Option 2" until the next Schedule (inclusive of the occupation tables).

If only Option 2 applies, delete from the heading "Option 1" down to and including the heading "Option 2".

Note that the Option titles in yellow highlight should always be deleted.

Option 1 – No age concession applies

No concession to the age requirement is approved under this agreement.

Option 2 – An age concessions applies

Delete Occupations from the table below that are not approved for this Agreement

For occupations listed in the Table under **Item 7.2**, an Overseas Worker may be nominated for a SESR or ENS visa if, at the time of the Approved Sponsor's Nomination, they have not turned:

- 55 years of age for skill level 1-4 occupations.

Table 7.2: Skill Level 1-4 Occupations eligible for Age Concession

ANZSCO or 6 digit Code	Occupation	ANZSCO Skill Level
221111	Accountant (General)	1
423111	Aged or Disabled Carer	4
234112	Agricultural Scientist	1
311111	Agricultural Technician	2
362212	Arborist	3
321111	Automotive Electrician	3
351311	Chef	2
233211	Civil Engineer	1
312212	Civil Engineering Technician	2
712915	Concrete Pump Operator	4
712111	Crane, Hoist or Lift Operator	4
321212	Diesel Motor Mechanic	3
251111	Dietician	1
411712	Disabilities Services Officer	2
241111	Early Childhood (Pre-Primary School) Teacher	1
341111	Electrician (General)	3
411411	Enrolled Nurse	2
222311	Financial Investment Advisor	1
721311	Forklift Driver	4
132311	Human Resource Manager	1
224999	Information and Organisation Professionals (nec)	1
221112	Management Accountant	1
831211	Meat Boner and Slicer	4
312512	Mechanical Engineering Technician	2
251211	Medical Diagnostic Radiographer	1
322311	Metal Fabricator	3
321211	Motor Mechanic (General)	3
252411	Occupational Therapist	1
332211	Painting Trades Worker	3
311216	Pathology Collector	3
252511	Physiotherapist	1
252611	Podiatrist	1

ANZSCO or 6 digit Code	Occupation	ANZSCO Skill Level
839312	Product Grader	4
511112	Program or Project Administrator	2
254414	Registered Nurse (Community Health)	1
254415	Registered Nurse (Critical Care and Emergency)	1
254422	Registered Nurse (Mental Health)	1
142111	Retail Manager (General)	2
621511	Retail Supervisor	4
334115	Roof Plumber	3
131112	Sales and Marketing Manager	1
225411	Sales Representative (Industrial Products)	1
241411	Secondary School Teacher	1
831212	Slaughterer	4
253311	Specialist Physician (General Medicine)	1
233214	Structural Engineer	1
133611	Supply and Distribution Manager	1
232212	Surveyor	1
733111	Truck Driver (General)	4
242211	Vocational Education Teacher	1
431511	Waiter	4

Schedule 8 Additional requirements for nomination

Item 8.1 Labour market testing requirements

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

Location of Business (Designated Regional Area)	LMT requirements
Category 2	The Sponsor must be able to demonstrate at least two (2) separate advertisements to test the Australian labour market for the nominated occupation. Category 2 location means a location within Australia with a postcode that is designated as a regional area of Australia and under the category 'Cities and major regional centres' for skilled migration purposes. See: Designated regional area postcodes (homeaffairs.gov.au)
Category 3	The Sponsor must be able to demonstrate at least two (2) 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. Category 3 location means a location within Australia with a postcode that is designated as a regional area of Australia and under the category 'Regional centres and other regional areas' for skilled migration purposes. See: Designated regional area postcodes (homeaffairs.gov.au)

Item 8.2 Settlement information package

The Approved Sponsor is to provide an undertaking that prior to engaging an Overseas Worker under this Agreement, the Approved Sponsor will provide that person with a package of settlement information produced by the Designated Area Representative, which includes information on:

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

Schedule 9 Variation of sponsorship obligations

Item 9.1 Obligation to cooperate with inspectors

The obligation in regulation 2.78 of the Migration Regulations applies and is not varied.

Item 9.2 Obligation to ensure equivalent terms and conditions of employment

The obligation in regulation 2.79 of the Migration Regulations applies and is not varied.

Item 9.3 Obligation to pay travel costs to enable sponsored persons to leave Australia

The obligation in regulation 2.80 of the Migration Regulations applies and is not varied.

Item 9.4 Obligation to pay costs incurred by the Commonwealth to locate and remove unlawful non-citizens

The obligation in regulation 2.81 of the Migration Regulations applies and is not varied.

Item 9.5 Obligation to keep records

The obligation in regulation 2.82 of the Migration Regulations applies and is not varied.

Item 9.6 Obligation to provide records and information to the Minister

The obligation in regulation 2.83 of the Migration Regulations applies and is not varied.

Item 9.7 Obligation to provide information to Immigration when certain events occur

The obligation in regulation 2.84 of the Migration Regulations applies and is not varied.

Item 9.8 Obligation to ensure Primary Sponsored Person works or participates in Nominated Occupation, program or activity

The obligation in regulation 2.86 of the Migration Regulations applies and is not varied.

Item 9.9 Obligation not to recover, transfer or take actions that would result in another person paying for certain costs

The obligation in regulation 2.87 of the Migration Regulations applies and is not varied. For clarity, the Approved Sponsor must not charge employees for services (see **Schedule 10** of this Agreement).

Schedule 10 Additional sponsorship obligations specific to this Agreement

The additional obligations listed below are applicable and commence when the Overseas Worker commences his or her employment or engagement with the Approved Sponsor, and end on the earlier of the day on which the Overseas Worker:

- (a) is granted a further substantive visa that is:
 - (i) not a TSS or SESR visa; and
 - (ii) in effect; and
- (b) ceases employment or engagement with the Approved Sponsor.

Item 10.1 Obligations not to Nominate where money owed

The Approved Sponsor must not Nominate Overseas Workers or members of their family unit who it has assessed, reasonably suspects or ought to reasonably suspect of owing money as a result of being recruited.

Item 10.2 Information on workplace rights

The Approved Sponsor must ensure that all Overseas Workers engaged under this Agreement are supplied with workplace rights information within seven (7) days of commencing employment in the Nominated Occupation with the Approved Sponsor.

Item 10.3 Obligations to pay salary directly

An Approved Sponsor must pay the Overseas Worker directly.

Item 10.4 Obligations regarding salary deductions

An Approved Sponsor may not deduct an amount from an amount payable to an Overseas Worker unless the deduction is authorised:

- (a) in writing by the employee and is principally for the employee's benefit; or
- (b) by the employee in accordance with an enterprise agreement; or
- (c) by or under a modern award or a *Fair Work Act 2009* (Cth) order; or
- (d) by or under a law of the Commonwealth, a State or a Territory, or an order of a court.

Item 10.5 Obligations regarding charging for fees for services provided

An Approved Sponsor must not charge Overseas Workers fees for services provided, including for their nomination and securing employment.

Item 10.6 Obligations regarding Annual Earnings

An Approved Sponsor must provide an Overseas Worker with Annual Earnings worked out in accordance with **Schedule 5** for their Occupation.

Schedule 11 Information to be provided to the Commonwealth

The Approved Sponsor must provide the following documentation to the Commonwealth when requested or when seeking additional Nomination Ceilings:

- (a) updated Workforce Plan, which must outline the current, and where requested, projected future composition of an Approved Sponsor's workforce. It must also include details of the total number of Australian workers (including permanent residents) and temporary visa holders engaged by the Approved Sponsor;
- (b) evidence of labour market testing that has been undertaken during the last 12 months;
- (c) evidence of salary arrangements for, and amounts paid to, persons who are or were Overseas Workers;
- (d) details of any breaches of immigration or other Commonwealth or State laws by the Approved Sponsor;
- (e) the dates and numbers and Occupations of any and all Australian workers who have been retrenched or made redundant in the past 12 month period; and
- (f) any additional information requested by the Commonwealth.

Signing Page

Select appropriate signature page option for the type of employer and move to this page. Delete other pages to end of document.

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
Departmental official in the presence of

Signature of official

Signature of witness

Name and position of official

Name of witness

Date

Date

Option 1

Insert this signature block for a company registered under the Australian *Corporations Act 2001* (Cth) [for example an Australian company].

Executed as a Deed by [INSERT APPROVED SPONSOR'S NAME])

ACN: [insert ACN])

ABN: [insert ABN])

in accordance with section 127 of the
Corporations Act 2001 (Cth)

Signature of Director

Signature of Director/Company Secretary

Name of Director

Name of Director/Company Secretary

Name of Witness

Signature of Witness

Date

Date

Option 2

Insert this signature block for a company registered under the Australian *Corporations Act 2001* (Cth) [for example an Australian company] that has a sole director who is also the sole company secretary.

Executed as a Deed by [INSERT APPROVED SPONSOR'S NAME] ABN [insert ABN]
in accordance with section 127 of the *Corporations Act 2001* (Cth)

Name of sole director who is also the sole company
secretary

Signature of sole director who is also the sole
company secretary

Date

By executing this Agreement the signatory warrants that the signatory is the sole director and also the sole company secretary of the Approved Sponsor and the signatory warrants that the signatory is duly authorised to execute this Agreement on behalf of the Approved Sponsor

in the presence of:

Name of witness

Signature of witness

Date

Option 3

Insert this signature block for a company not registered under the Australian *Corporations Act 2001* (Cth) [for example an international or foreign company]

SIGNED, SEALED AND DELIVERED by [INSERT APPROVED SPONSOR'S NAME]
[insert identifying company number] by:

Name and position

Signature

Date

By executing this Agreement the signatory warrants that the signatory is duly authorised to execute this Agreement on behalf of the Approved Sponsor

in the presence of:

Name of witness

Signature of witness

Date

Option 4

Insert this signature block for a partnership

SIGNED, SEALED AND DELIVERED by [INSERT APPROVED SPONSOR'S NAME]

Name of partner

Signature of partner

Date

By executing this Agreement the signatory warrants that the signatory is duly authorised to execute this Agreement on behalf of the Approved Sponsor

in the presence of:

Name of witness

Signature of witness

Date

Option 5

Insert this signature block for an individual

SIGNED, SEALED AND DELIVERED by [INSERT APPROVED SPONSOR'S NAME]

Signature

Date

in the presence of:

Name of witness

Signature of witness

Date