



**Australian Government**  
**Department of Employment  
and Workplace Relations**

# **DEED OF AGREEMENT IN RELATION TO PARTICIPATION AS AN APPROVED EMPLOYER FOR THE PACIFIC LABOUR SCHEME**

**Commonwealth of Australia** represented by the Department of  
Employment and Workplace Relations **(DEWR) ABN 96 584 957 427**

**^Party 2 Name^**

**^Party 2 ABN/ACN as appropriate^**

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## DEED OF AGREEMENT – PACIFIC LABOUR SCHEME

### Date

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This Deed is made on the date it is executed by the Parties in accordance with clause 3.

### Parties

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This Deed is made between and binds the following parties:

1. **Commonwealth of Australia ('Commonwealth', 'Us', 'We' or 'Our')** represented by and acting through the Department of Employment and Workplace Relations (DEWR) ABN 96 584 957 427
2. **^ Insert Approved Employer Name^ ^Insert Approved Employer ABN and ACN/ARBN if applicable^**  
**^Insert Approved Employer Address^ ('You' or 'Your' or 'Your organisation')**

### Recitals

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Whereas:

- A. The Commonwealth's Pacific Labour Scheme ('Scheme') aim is to contribute to the economic development of participating countries while at the same time offering a reliable workforce to Australian employers who, despite their commitment to employing Australian job seekers, have an unmet demand for labour.
- B. We administer the Scheme for the Commonwealth with the assistance of several other Australian Government agencies including the Department of Foreign Affairs and Trade, the Department of Home Affairs and the Fair Work Ombudsman. We have appointed a Managing Contractor to assist Us to manage the day to day operational aspects of the Scheme. This is known as the Pacific Labour Facility.
- C. You have applied to be an Approved Employer for the purposes of the Scheme.
- D. In order to participate in the Scheme, You must be approved as a Temporary Activities Sponsor by the Department of Home Affairs.
- E. You agree to participate in the Scheme as an Approved Employer, subject to the terms of this Deed.

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## THIS DEED WITNESSES AND THE PARTIES AGREE:

### 1. DEFINITIONS

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1.1 In this Deed, unless the context indicates otherwise:

**Accommodation Arrangement** means any legally binding arrangement entered into by You with an Accommodation Provider in relation to the Scheme.

**Accommodation Provider** means any organisation providing accommodation for one or more Workers under an Accommodation Arrangement.

**Application** means a form provided by You to Us or Our Managing Contractor seeking approval to become an Approved Employer under the Scheme.

**Approved Employer** means a party to this Deed who is:

- (a) approved by Us as an employer for the purposes of the Scheme;
- (b) participating in the Scheme by recruiting and employing Workers subject to the terms of this Deed; and
- (c) approved as a Temporary Activities Sponsor by the Department of Home Affairs.

**Approved Recruitment** means a Recruitment Application in relation to the Scheme which has been approved by Us under Item B of Schedule 1.

**Business Day** in relation to the doing of an action in a place, means any day in that place other than:

- (a) Saturday, Sunday or public holiday; and
- (b) any day within the two-week period beginning on the first Saturday that falls before Christmas Day (or from Christmas Day when it falls on a Saturday).

**Change in Control** means:

- (a) subject to paragraph (b) below, in relation to a Corporation, a change in any of the following:
  - (i) Control of more than one half of the voting rights attaching to shares in the Corporation, whether due to one or a series of transactions occurring together or on different occasions;
  - (ii) Control of more than one half of the issued share capital of the Corporation, whether due to one or a series of transactions occurring together or on different occasions, excluding any part of the issued share capital which carries no right to participate beyond receipt of an amount in the distribution of either profit or capital; or
  - (iii) Control of more than one half of the voting rights attaching to membership of the Corporation, where the Corporation does not have any shareholders;
- (b) in relation to a Corporation which is owned or controlled by a trustee company, any change as set out in paragraph (i) above in relation to either that Corporation or its corporate trustee; or

- (c) in relation to a partnership:
- (i) the sale or winding up or dissolution of the business by the partners;
  - (ii) a change in any of the partners; or
  - (iii) the retirement, death, removal or resignation of any of the partners.

**Commissioner** has the same meaning as it has in section 6 of the Privacy Act.

**Commonwealth** means the Commonwealth of Australia as constituted by the *Commonwealth of Australia Constitution Act 1900* (Cth).

**Control** has the meaning given to that term in section 50AA of the *Corporations Act 2001* (Cth).

**Corporation** has the meaning given to that term in section 57A of the *Corporations Act 2001* (Cth).

**Deed** means this Deed, including the Schedules.

**Department of Employment and Workplace Relations (DEWR)** means the Commonwealth Department of Employment and Workplace Relations, which is the department responsible for the administration of the Scheme and includes any department, agency or authority of the Commonwealth which is, from time to time, responsible for administering this Deed.

**Department of Foreign Affairs and Trade** means the Commonwealth Department of Foreign Affairs and Trade and includes any department, agency or authority of the Commonwealth which, from time to time, is responsible for performing the functions of the Department of Foreign Affairs and Trade.

**Department of Home Affairs** means the Commonwealth Department of Home Affairs and includes any department, agency or authority of the Commonwealth which is, from time to time, responsible for administration of the *Migration Act 1958* (Cth) as varied from time to time.

**Electronic Communication** has the same meaning as it has in section 5 of the *Electronic Transactions Act 1999* (Cth).

**Employment Program** means any employment program administered by the Commonwealth Government or a State or Territory government.

**Fair Work Instrument** has the meaning given in the *Fair Work Act 2009* (Cth). **Force Majeure Event** means an event or circumstance that is any of the following:

- (a) an act of God, including a natural disaster such as a bushfire, an earthquake, a flood, a landslide or a cyclone;
- (b) war, invasion, acts of foreign enemies, hostilities between nations, a terrorist act, civil insurrection or riots;
- (c) a pandemic or epidemic;
- (d) industrial action or labour disturbance other than in the Your workforce; and
- (e) action or inaction by a government body including by executive or administrative order,

but does not include the financial circumstances of a party.

**Guidelines** means guidelines or guidance made available by Us and marked as such, in relation to the obligations and responsibilities of Approved Employers under the Scheme, as amended or from time to time.

**Host Organisation** means a third party organisation that provides work to the Workers in accordance with a Host Organisation Arrangement.

*Note: Scheme Workers must remain employed by You at all times and You remain responsible for the Workers employment conditions.*

**Host Organisation Arrangement** means any legally binding, written arrangement entered into by You with a Host Organisation in relation to the Scheme.

**Implementation Arrangements** means the arrangements published by Us that give effect to the Memoranda of Understandings between the Commonwealth and the Participating Countries.

**Managing Contractor** means the contractor engaged by Us to manage aspects of the Scheme on Our behalf. The Managing Contractor provides these services through the Pacific Labour Facility.

**Material** includes documents, equipment, software (including source code and object code), goods, information and data stored by any means including all copies and extracts of the same.

**Memorandum of Understanding** means the arrangement between the Commonwealth and a Participating Country, which sets out the mutual understandings for sending and receiving workers from that country.

**Notice, Notify or Notification** means notice in accordance with clause 24.

**Offer of Employment** means the document which sets out the details of an offer of employment for a Worker, in accordance with Item C of Schedule 1 to this Deed.

**Our Confidential Information** means information:

- (a) that we identify, by Notice in writing to You after the Effective Date, as confidential information for the purposes of this Deed;
- (b) that You know or ought to know is confidential;

and includes:

- (c) all Reports provided by You to Us or Our Managing Contractor under this Deed; and
- (d) all responses to Notices issued by Us or Our Managing Contractor under the Deed.

**Our Representative** means the person nominated in Item A5 of Schedule 1 or as otherwise Notified by Us to You.

**Pacific Labour Scheme or Scheme** means the programme established by the Commonwealth to provide citizens of a Participating Country with the opportunity to undertake work within rural or regional Australia where there is demonstrated unmet demand for labour.

**Participating Country** means a country that is a party to a current Memorandum of Understanding with the Commonwealth in support of the Scheme.

**Personal Information** has the same meaning as it has in section 6 of the Privacy Act.

**Personnel** means:

- (a) in relation to You, any natural person who is an officer, employee, agent, volunteer or professional advisor of You;
- (b) in relation to Us, any natural person who is an officer, employee, agent, volunteer or professional advisor of Us; and
- (c) in relation to any other entity, any natural person who is an officer, employee, agent, volunteer or professional advisor of the entity.

**Port of Arrival** means the place at which a Worker enters Australia for immigration purposes.

**Port of Departure** means the place at which a Worker departs Australia for immigration purposes.

**Privacy Act** means the *Privacy Act 1988* (Cth) as varied from time to time.

**Program Assurance Activities** means any activities that may be conducted by Us at any time to determine whether You are meeting Your obligations under this Deed, including in relation to Workers, Providers and Subcontractors.

**Provider** means any entity that is one or more of the following:

- (a) an Accommodation Provider; and
- (b) a Host Organisation.

**Provider Arrangement** means any of one or more of the following:

- (a) an Accommodation Arrangement; and
- (b) a Host Organisation Arrangement.

**Records** means all documents, information and data stored by any means and all copies and extracts of the same, and includes all Reports and other Material, held by You, Your Personnel, Providers and Subcontractors under or in connection with the Scheme. "Records" may include Your Confidential Information, Our Confidential Information and Personal Information.

**Recruitment Application** means any application completed by You in accordance with Item B of Schedule 1 and the Guidelines.

**Regulations** means the *Migration Regulations 1994* (Cth) as varied from time to time.

**Relevant Agency** means the Department of Home Affairs, the Fair Work Ombudsman, the Department of Foreign Affairs and Trade, the Australian Federal Police, the Australian Taxation Office, the Auditor-General, the Office of the Australian Information Commissioner, any Commonwealth, State or Territory work health and safety authority, and any other agencies Notified by Us to You from time to time.

**Report** means any Material You are required to produce for Us for the purposes of reporting on the Scheme under this Deed.

**Specified Events** means the events specified in clause 19.2 and clause 19.3.

**Subcontract** means any arrangement entered into by You by which some or all of Your obligations under this Deed are provided by another party, but does not include:

- (a) any Provider Arrangement; or
- (b) any arrangement entered into by You for the purposes of transporting a Worker into Australia or within Australia.

**Subcontractor** means any party that has entered into a Subcontract with either You or Us or Our Managing Contractor (as the case may be) under which that party provides goods or services.

**Temporary Work (International Relations) visa (subclass 403) – Pacific Labour Stream** has the meaning given in the Regulations.

**Temporary Activities Sponsor** means a party approved as a sponsor in relation to the temporary activities sponsor class under the *Migration Act 1958* (Cth), as varied from time to time.

**Term of this Deed** means the period specified in clause 3.2 of this Deed.

**Trust** means the trust specified (if any) in the Parties to the Agreement section of this Agreement.

**Worker** means a citizen of a Participating Country who satisfies the Scheme's eligibility criteria outlined in the Implementation Arrangements to the Memoranda of Understanding, and who is granted a Temporary Work (International Relations) visa (subclass 403) – Pacific Labour Stream, as defined in the Regulations.

**Your Confidential Information** means the following information:

- (a) records of Workers employed by You; and
- (b) records of businesses with whom You enter labour hire arrangements under the Scheme.

**Your Representative** means the person nominated in Item A.7 of Schedule 1 or as otherwise Notified to Us by You.

## 2. INTERPRETATION

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2.1 In this Deed:

- (a) a reference to:
  - (i) Us or Our includes (where the context permits) reference to Us, Our Representative, Our Personnel, or anybody else acting on Our behalf;
  - (ii) You or Your includes (where the context permits) reference to You, Your employees, agents or anybody else acting on Your behalf; and



- (iii) a clause or item in this Deed or Schedule includes, where the context permits, any subclause, subitem or subparagraph within that clause;
  - (b) clause headings and notes are inserted for convenience only, and have no effect in limiting or extending the language of provisions of this Deed;
  - (c) a reference to a person includes a partnership and/or a body whether corporate or otherwise, and any executor, administrator or successor in law of the person;
  - (d) a reference to a legislative provision or legislation (including subordinate legislation) is to that provision or legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
  - (e) a reference to a document (including this document) or agreement or another instrument, or a provision of a document (including this document) or agreement or another instrument, is to that document, agreement, instrument or provision as amended, supplemented, replaced or novated;
  - (f) a reference to a party to this Deed or to any other document or agreement includes a successor in title, permitted substitute or a permitted assign of that party;
  - (g) a word denoting the singular includes the plural, and vice-versa;
  - (h) a word that suggests one gender includes the other genders; and
  - (i) "includes" in any form is not a word of limitation.
- 2.2 You agree that by virtue of this clause, the terms of the Guidelines are incorporated by reference in this Deed.
- 2.3 Unless a contrary intention appears, if there is conflict or inconsistency between any part of:
- (a) this Deed;
  - (b) the Schedule;
  - (c) any Guidelines;
  - (d) the Implementation Arrangements; or
  - (e) any other document expressly incorporated into the Deed,
- then the material mentioned in any one of the clause 2.3(a) to 2.3(e) above has precedence over material mentioned in a subsequent paragraph, to the extent of any conflict or inconsistency.
- 2.4 Notwithstanding clause 27.2, We may, in Our absolute discretion, by Notice to You unilaterally amend:
- (a) the Guidelines; or
  - (b) the terms of this Deed to comply with any relevant Memorandum of Understanding or the Implementation Arrangements (or each, as the case may be), as amended from time to time,
- or both, as the case may be.

- 2.5 You acknowledge and agree that the terms and conditions of this Deed will be deemed to be amended in accordance with Our Notice under this clause 2.4.

### **3. COMMENCEMENT AND TERM**

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- 3.1 This Deed commences on the date on which the Deed is executed by You and signed by Us (the 'Effective Date').
- 3.2 This Deed expires on 30 June 2023 ('Term'), irrespective of the date your approval as a Temporary Activities Sponsor ends, unless terminated by Us earlier.
- 3.3 We may, at Our sole option, offer You extensions of the Term of this Deed:
- (a) for a period as determined by Us; and
  - (b) if We determine in Our absolute discretion, on the basis of additional terms and conditions, or variations to existing terms and conditions,
- by giving Notice to You not less than twenty (20) Business Days prior to the end of the Term of the Deed.
- 3.4 Subject to clause 3.3, if You accept Our offer to extend the Term of this Deed, the Term of this Deed will be so extended and all terms and conditions of this Deed continue to apply, unless otherwise agreed in writing between the Parties.
- 3.5 You agree that We provide no guarantee of:
- (a) the number or length of Recruitment Applications We may approve;
  - (b) the number of Workers You may receive approval to recruit or that may accept any Offers of Employment from You;
  - (c) the type of work Workers may be able to perform; or
  - (d) that the Workers will be available and/or remain in Australia for the length of any Approved Recruitment.
- 3.6 You agree that if You do not make a Recruitment Application in accordance with Item B of Schedule 1 within 24 months from the Effective Date, We may in Our absolute discretion terminate this Deed under clause 20 (Termination without costs).

### **4. PRINCIPLE OBLIGATIONS**

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#### **Your principle obligations**

- 4.1 You must perform all of Your obligations as specified in this Deed, including those detailed in Schedule 1:
- (a) in good faith towards Us, Our Managing Contractor and the Workers;
  - (b) in a manner that maintains the good reputation of the Commonwealth, Us and the Scheme; and
  - (c) in accordance with the Guidelines, even if a particular clause does not expressly refer to any Guidelines.

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- 4.2 You must work collaboratively and cooperatively, and take all reasonable steps to ensure that Your Personnel, Providers and Subcontractors work collaboratively and cooperatively with Us, at all times, including Our Managing Contractor, its Subcontractors and Our other Personnel or any other person authorised in writing by Us.
- 4.3 You must comply, and must take all steps to ensure that Your Personnel, Providers and Subcontractors comply with, any request, advice or direction or notice given by Us under this Deed, including under clause 4.9 or clause 4.10.
- 4.4 You must prepare, maintain and deliver Reports, Records or other Material in accordance with any Notice issued by Us under clause 4.9, clause 7 or clause 13 (as the case may be), and as required under the Guidelines.
- 4.5 You must ensure that all Reports and Records delivered by You to Us under this Deed are true, accurate and complete.
- 4.6 You must only recruit Workers in accordance with an Approved Recruitment and otherwise in accordance with this Deed.
- 4.7 During the Term of this Deed, You must comply with, and must ensure that Your Personnel, Providers and Subcontractors comply with, all Australian laws and the laws of any other country that apply to activities You are engaged in under or in connection with the Scheme.
- 4.8 Without limiting clause 4.7, You must obtain and maintain all necessary accreditations, licences, approvals and permits required by all Australian laws and the laws of any other country in relation to Your activities under or in connection with this Deed and the Scheme.

#### **Our rights**

- 4.9 We may, in Our absolute discretion, issue any advice, direction or Notice to You, Your Personnel, Providers or Subcontractors.
- 4.10 We may request the preparation and delivery of any Records, Reports or other Material in connection with the Scheme from You by issuing Notice to You, including in relation to:
- (a) Your participation in the Scheme;
  - (b) Your performance of this Deed;
  - (c) Your Personnel; or
  - (d) any Provider or Subcontractor.
- 4.11 We may, in Our absolute discretion, conduct Program Assurance Activities. We will provide Notice of the conduct of Program Assurance Activities if We consider that it is appropriate and practicable to provide such Notice in the circumstances.
- 4.12 You acknowledge that We may publish the following details about Your Organisation on Our website, Our Managing Contractor's website, or elsewhere as Notified by Us to You:
- (a) Your Organisation's name;
  - (b) Your participation in the Scheme as an Approved Employer (including whether Your Organisation is a direct employer, labour-hire company or contractor); and

- (c) the regions in which You have been approved to participate in for the purposes of the Scheme.

4.13 We will exercise Our rights under this Deed in good faith. To avoid doubt, this obligation does not oblige Us to make decisions which are detrimental to Our interests, the interests of the Scheme or Workers.

## **5. GENERAL NOTIFICATION**

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5.1 You must Notify Us or Our Managing Contractor as soon as possible, but no later than the next Business Day:

- (a) when You are knowingly in breach of, or may be in breach of, any of Your obligations under this Deed;
- (b) when there is any change in circumstances that may affect Your capacity to meet Your obligations under this Deed; or
- (c) without limiting or otherwise affecting clause 5.1(a) or clause 5.1(b):
  - (i) of any matter or incident which could affect, or has affected:
    1. the welfare of Your Workers;
    2. the reputation of the Scheme, Us or the Commonwealth; or
  - (ii) of receiving any notice or other communication from a Provider or a Subcontractor under clauses in Your Provider Arrangements and Subcontracts which are equivalent to this clause 5, clause 6, or clause 8. You must also provide Us with a copy of that notice or communication.

5.2 You must Notify Us or Our Managing Contractor as soon as possible, and within 24 hours of the relevant circumstance occurring, of:

- (a) the death of a Worker; or
- (b) the serious injury of a Worker.

5.3 If You issue Us a Notice under clause 5.2, You do not need to issue a further Notice under clause 6.1(h).

5.4 In addition to the Notification requirements under this Deed, You must Notify or otherwise inform Us:

- (a) of any other circumstances required by Us from time to time; and
- (b) as required in accordance with the Guidelines. For clarity, where the Guidelines specify that informing Us of any particular circumstance is required immediately via telephone call, then You must comply with that requirement in addition to the Notification requirements of this Deed.

## **6. SPECIFIC THINGS YOU MUST NOTIFY US OF**

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6.1 Without limiting or otherwise affecting clause 5, You must Notify Us or Our Managing Contractor as soon as possible, but no later than the next Business Day, when You become

aware of any of the following circumstances:

- (a) a Worker has breached one or more of the conditions of their Subclass 403 (Temporary Work (International Relations)) visa in the Pacific Labour Scheme stream;
- (b) You intend to terminate the employment of a Worker (You must also provide the reasons why You intend to take this action);
- (c) when You have terminated the employment of a Worker;
- (d) when You have an inability to pay or fully pay a Worker;
- (e) when You cannot comply with your obligations under Item D.1(c) of Schedule 1 to provide a Worker a minimum of 30 hours of work a week as set out in that item;
- (f) when You are under investigation for, charged with, or found to have breached any Australian laws in connection with the Scheme;
- (g) when a Worker is under investigation for, charged with, or found to have breached any Australian laws;
- (h) when a Worker ceases, or intends to cease, their employment with You;
- (i) subject to clause 5.3, any work health and safety incidents involving Workers which requires contacting an emergency service, accessing medical and allied health services, and/or claiming under health insurance as contemplated by Items F2(c), F2(d) or F2(e), and the outcome of those incidents;

**Note:** Reporting a work health and safety incident under clause 6.1(i) does not override any of Your obligations under this Deed, including under clause 8, or relevant WHS legislation.

- (j) any concerns held by You or expressed to You by Workers regarding the wellbeing or welfare of one or more Workers;
- (k) You have engaged in misleading or deceptive conduct, including if You have provided false or misleading information to Us or any Relevant Agency;
- (l) You have delivered a Report, Record or other Material to Us which is not true, complete and accurate; and
- (m) if You are in breach of the Guidelines.

6.2 If You issue a Notification to Us under this clause 6 in respect of a circumstance, You do not need to Notify Us under clause 5 for the same circumstance.

## 7. REPORTING

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7.1 You must Report in writing to Us or to Our Managing Contractor:

- (a) in accordance with Our AE Guidelines available on the [Pacific labour mobility website](#); and
- (b) at any time within five (5) Business Days of receiving Notice of a request from Us or Our Managing Contractor for a report on a matter as stated in the Notice, or such other longer timeframe specified by Us in the relevant Notice.

7.2 You must promptly prepare such updates and amendments to Reports delivered under this clause 7 where such Reports are not to Our satisfaction.

7.3 Nothing in this clause 7 limits or otherwise affects the Parties' respective rights and obligations under clause 4.4, 4.5 and 4.10.

## 8. WORK HEALTH AND SAFETY

8.1 In this clause 8:

<b>WHS Act</b>	means the <i>Work Health and Safety Act 2011</i> (Cth).
<b>WHS Notice</b>	means any notice referred to in the WHS legislation applicable to the jurisdiction in which the Work is being carried out including a Provisional Improvement Notice, Non-Disturbance Notice, Prohibition Notice or Notice Requesting Production of Documents.
<b>WHS legislation</b>	means the WHS Act, any regulations made under that Act and any 'corresponding WHS law' within the meaning of section 4 of the WHS Act and Regulation 6A of the Work Health and Safety Regulations 2011 (Cth).
<b>WHS Undertaking</b>	means a WHS undertaking, howsoever described in the WHS legislation applicable to the jurisdiction in which the Work is being carried out.
<b>Worker</b>	has the meaning given to it under the WHS Act. For the avoidance of any doubt the Parties agree the term 'Worker' includes a Worker as defined in this Deed.

8.2 You must carry out Your obligations under this Deed in a safe manner, including by:

- (a) complying with, and ensuring Your Workers comply with, all applicable WHS legislation and approved code of practice or compliance codes, howsoever described in WHS legislation, relating to work health and safety;
- (b) providing a safe work environment for all of Your Workers, including but not limited to providing necessary personal protective equipment to all Workers at no cost to those Workers;
- (c) ensuring Your Workers comply with all Your applicable instructions, directions, policies and procedures relating to work health and safety;
- (d) where the health and safety of any person may be affected, consulting, cooperating and coordinating with any other relevant duty holders and Workers in relation to health and safety issues;
- (e) not placing Us in breach of any obligations We may have under the WHS legislation and ensuring that Your Workers do not place Us in breach of any of Our obligations We may have under WHS legislation;
- (f) notifying Us, as soon as practicable, of:
  - (i) any concern You have regarding work, health and safety in relation to Your Workers;
  - (ii) any notifiable incident, howsoever described in WHS legislation, which arises, including:

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- A. providing Us with a copy of any written Notice given to the relevant work, health and safety regulator in the jurisdiction in which the work is being carried out;
  - B. informing Us of the results of any investigation into the cause of the notifiable incident; and
  - C. informing Us of any recommendation You have for prevention in the future;
- (iii) any breach or suspected breach of WHS legislation by You or Your Workers in connection with this Deed;
  - (iv) a cessation of work or direction to cease work from any person having a right or power under WHS legislation to do so, due to unsafe work or for any other reason;
  - (v) entry by an inspector, howsoever described in WHS legislation, to any place where Your Workers are performing Work for the issue of a WHS Notice or provision of an Undertaking;
  - (vi) any of the following circumstances:
    - A. a request is made to You by the relevant work health and safety regulator in the jurisdiction in which the work is being carried out for information concerning Your compliance or the compliance of Your Workers with WHS legislation;
    - B. a decision is made by the relevant work health and safety regulator in the jurisdiction in which the work is being carried out in respect of Your compliance or the compliance of Your Workers with WHS legislation; or
    - C. proceedings are initiated or taken against You by the relevant work health and safety regulator in the jurisdiction in which the work is being carried out under WHS legislation;
- (g) ensuring that any Provider Arrangement or Subcontract entered into by You pursuant to clause 9 (Subcontracting and Providers) of this Deed imposes obligations on the Providers or Subcontractors equivalent to the obligations You have under this clause.
- 8.3 If You do not have any direct obligations under WHS legislation, You are responsible under this Deed for ensuring that the relevant duty holder complies with their obligations under WHS legislation, including in relation to all matters referred to in clause 8.2.
- 8.4 Without limiting any other provision of this Deed, You must within five (5) Business Days of receipt, provide Us with copies of:
- (a) all formal WHS Notices and written communications issued to You or any of Your Workers or Subcontractors by the relevant regulator, agent of the regulator or a health and safety representative in the jurisdiction in which the Work is being carried out, under or in compliance with the applicable WHS Legislation; and
  - (b) all formal WHS Notices, written communications and written undertakings given by You or any of Your Subcontractors, to the relevant regulator or agent of the regulator in the jurisdiction in which the Work is being carried out under or in compliance with the

applicable WHS Legislation,

arising out of or in any way in connection with the carrying out of the Your obligations under this Deed.

8.5 You must ensure that, if WHS legislation requires that:

- (a) a person:
  - (i) be authorised or licensed to carry out any work at that workplace, that person is so authorised or licensed, and complies with any conditions of such authorisation or licence; or
  - (ii) has prescribed qualifications or experience, or if not, is to be supervised by a person who has prescribed qualifications or experience, that person has the required qualifications or experience or is so supervised; or
- (b) a workplace, plant or substance (or design), or work (or class of work) be authorised or licensed, that workplace, plant or substance, or work is so authorised or licensed.

8.6 You must not direct or allow a person to carry out work, or use a plant or a substance at a workplace unless, the authorisation, licensing, prescribed qualifications or experience required by WHS Legislation and clause 8.5 are met.

8.7 In the event of any inconsistency between:

- (a) any of the policies, procedures or legislation referred to in this clause; and
- (b) WHS legislation,

You will comply with the policies, procedures and/or legislation that comply with the WHS legislation and notify Us of any such inconsistency.

## **9. SUBCONTRACTING AND PROVIDERS**

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9.1 You may only enter into a Subcontract for the performance of Your obligations under this Deed with our written approval. In seeking Our approval, you must bring to Our attention what clauses of the Deed are being subcontracted. In giving approval, We may impose terms and conditions as We think fit.

9.2 You must not engage any third parties to perform Your obligations or to provide services to You or to Your Workers in connection with this Deed except in accordance with this clause.

9.3 You must ensure that all Provider Arrangements and Subcontracts:

- (a) are legally binding and in writing;
- (b) contain provisions which are equivalent to clauses 4, 5, 6, 8, 10, 11, 12, 13, 14, 15, 16, 17, 19, 20, 21, 22, 24, 30 and 31; and
- (c) contain provisions which are equivalent to the items in Schedule 1 where relevant to the particular Provider Arrangement or Subcontract.

9.4 You must ensure that Accommodation Providers You engage:

- (a) acknowledge that they are accommodating workers that are participating in the Pacific



Labour Scheme;

- (b) agree that, from time to time, they may be required to assist You, Us or a Relevant Agency to comply with relevant laws or this Deed; and
- (c) where required by Us, enter into written Accommodation Arrangements.

9.5 You agree that:

- (a) notwithstanding anything in this clause 9, You must employ Workers directly and are fully responsible for the Worker's employment conditions;
- (b) Your engagement of any Subcontractors does not limit or otherwise affect Your obligations under this Deed;
- (c) Your engagement of any Accommodation Providers, whether or not in writing, does not limit or otherwise affect Your obligations under this Deed; and
- (d) You are fully responsible and liable for:
  - (i) any act or omission of Your Providers and Subcontractors in relation to the Scheme, including any Worker;
  - (ii) each Provider's and Subcontractor's compliance with the relevant Provider Arrangement or Subcontract; and
  - (iii) any cost, expense, damage, loss or liability arising under or in connection with clause 9.5(d)(i) or clause or 9.5(d)(ii).

9.6 We may publicly disclose the names of any Provider or Subcontractor engaged to perform any of Your obligations under this Deed.

9.7 You acknowledge that We have engaged a Managing Contractor to assist Us in delivering or managing aspects of the Scheme. Our Managing Contractor will Notify You in writing of the matters or tasks that the Managing Contractor will perform for Us. We request that You liaise with Our Managing Contractor in the first instance in respect of those matters/tasks. We may authorise Our Managing Contractor to subcontract aspects of the services it provides to Us to another service provider. Reference in this Deed to the 'Commonwealth', 'Us', 'We' or 'Our' includes Our Managing Contractor, if the context requires.

## **10. INSURANCE**

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10.1 You must, throughout the Term of this Deed, effect and maintain, or cause to be effected and maintained, all insurance policies, with limits of indemnity, to adequately cover Your risks and liabilities arising under or in connection with this Deed and Your participation in the Scheme in accordance with the Guidelines.

10.2 You must, for the Term of this Deed, effect and maintain insurance, including the following insurances:

- (a) public liability insurance;
- (b) professional indemnity insurance, if appropriate;
- (c) workers' compensation insurance as required by law; and

- (d) any other insurance that may be reasonably required by Us from time to time.

***Note:** it is Your responsibility to ensure that You effect and maintain insurances that are appropriate for Your organisation's circumstances, based on independent advice. This may include additional types of insurance not specified in this Deed, which may be appropriate and/or necessary, depending on Your organisations' circumstances.*

- 10.3 You must, on receipt of a Notice requesting You to do so, provide to Us certificates of currency, and a copy of the terms, for the insurance policies held by You in accordance with this clause 10.

## 11. INDEMNITY

- 11.1 In this clause 11:

**fault** means any negligent or unlawful act or omission or wilful misconduct.

- 11.2 You indemnify Us from and against any:

- (a) cost or liability incurred by Us;
- (b) loss or damage to Our property; or
- (c) loss or expense incurred by Us in dealing with any claim against Us including legal costs and expenses on a solicitor/own client basis and the cost of time spent, resources used or disbursements paid by Us,

arising from either one or more of the following:

- (d) personal injury or death in respect of any person (including a Worker) involved in the Scheme;
- (e) the exercise by Us of any of Our rights under this Deed in relation to a Worker, Your Personnel, a Provider or a Subcontractor;
- (f) a breach by You of this Deed, including Your contravention of any workplace relations or work health and safety laws;
- (g) any publication of information by Us where such information relates to:
  - (i) Your performance of this Deed; or
  - (ii) best practice by You,
 and where the published information was provided by You to Us; and
- (h) an act or omission involving fault on the part of You, Your Personnel, a Provider or a Subcontractor in connection with:
  - (i) this Deed, the Provider Arrangement or the Subcontract (as the case may be);
  - (ii) the provision of accommodation or other services to Workers; or
  - (iii) Your, Your Personnel's, the Provider's or the Subcontractor's participation in the Scheme.

- 11.3 Your liability to indemnify Us under clause 11.2 will be reduced proportionately to the extent that any act or omission involving fault on the part of Us or Our Personnel contributed to the relevant cost, liability, loss, damage or expense.
- 11.4 Our right to be indemnified under this clause 11 is in addition to, and not exclusive of, any other right, power or remedy provided by law, but We are not entitled to be compensated in excess of the amount of the relevant cost, liability, loss, damage or expense.

## 12. INTELLECTUAL PROPERTY

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- 12.1 You grant Us, or must ensure that We are granted, an irrevocable, royalty-free, non-exclusive, world-wide licence, including the right to sublicense, to exercise all Intellectual Property Rights, in any Material delivered or otherwise obtained by Us under this Deed or in connection with the Scheme, for any Australian Government purpose, or any purpose in the interests of the Scheme or any Employment Program (including the Seasonal Worker Program), or both, as the case may be.
- 12.2 You represent and warrant that exercising Our rights under clause 12.1 will not infringe any third party's Intellectual Property Rights or Moral Rights.

## 13. RECORDS

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- 13.1 You must maintain true, accurate and complete Records about the following:
- (a) the performance of Your obligations under this Deed;
  - (b) relevant details of each Worker You employ including, their hours worked, their placement locations, pay and conditions, work history and pay slips;
  - (c) any other matters required by law or Notified by Us, to You, from time to time.
- 13.2 Subject to clause 14.2(m), You must keep records created under this clause 13.1 for the longer of the periods below:
- (a) as required by law;
  - (b) seven (7) years from the date they are created; or
  - (c) any reasonable longer period as Notified by Us.

## 14. PRIVACY

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- 14.1 In this clause 14:

<b>Agency</b>	has the same meaning as in section 6 of the Privacy Act
<b>Australian Privacy Principle</b>	has the same meaning as in section 6 of the Privacy Act
<b>Contracted Services Provider</b>	has the same meaning as in section 6 of the Privacy Act
<b>Eligible Data Breach</b>	has the same meaning as in section 6 of the Privacy Act
<b>Personal Information</b>	has the same meaning as in section 6 of the Privacy Act

**Sensitive Information** has the same meaning as in section 6 of the Privacy Act

**Records** has the same meaning as in section 6 of the Privacy Act

14.2 In relation to Personal Information received, created or held by You for the purposes of this Deed, You agree:

- (a) that You are a Contracted Service Provider and therefore bound to carry out and discharge the obligations contained in the Australian Privacy Principles as if You are an Agency under the Privacy Act;
- (b) that You must use or disclose Personal Information obtained in the course of conducting services under the Deed only for the purposes of the Deed;
- (c) that You must notify individuals whose Personal Information You hold that their Personal Information may be disclosed and passed on to Us and to other persons in relation to providing services under the Deed;
- (d) not to use or disclose Personal Information or to engage in any practice that would - if done or engaged in by Us - breach any section of the Privacy Act (including the Australian Privacy Principles);
- (e) not to use or disclose Sensitive Information otherwise than in accordance with the Privacy Act;
- (f) that You will use the approved 'Privacy Notification and Consent Form' issued by Us to obtain the informed written consent to the collection, use and disclosure of Personal Information (including Sensitive Information) from the individual affected to ensure You meet the notification requirements of the Privacy Act;
- (g) that if You wish to disclose an individual's Personal Information from Your organisation to another entity or individual outside Australia or an external Territory You will, prior to any disclosure of Personal Information:
  - (i) obtain the informed written consent of the individual in accordance with clause 14.2(f) above; and
  - (ii) otherwise comply with APP 8 prior to disclosing any Personal Information to another entity or individual outside Australia or an external Territory.
- (h) to comply with reasonable demands, directions or inquiries made by the Commissioner or Us (or our Managing Contractor) in relation to access to, or management of, Personal Information;
- (i) to ensure that any Subcontract entered into by You pursuant to clause 9 (Subcontracting and Providers) of this Deed imposes obligations on Subcontractors equivalent to the obligations You have under this clause 14;
- (j) to ensure that any other person who You allow to access Personal Information is made aware of, and undertakes in writing, to observe the Australian Privacy Principles;
- (k) to comply with policy guidelines laid down by Us or issued by the Commissioner from time to time relating to the handling of Personal Information;

- (l) to keep Us informed of any developments in relation to an Eligible Data Breach;
- (m) if requested by Us, at the end of this deed, to return all Records containing Personal Information to Us, or delete or destroy those Records in the presence of a person authorised by Us;
- (n) to Your name being published in reports by the Commissioner.

14.3 Subject to clause 14.2, You must immediately notify Us if You become aware:

- (a) of a breach or suspected breach of Your obligations under this clause 14 (which You must investigate and report the substance and outcome of that investigation to Us within fourteen (14) calendar days of becoming aware);
- (b) that a disclosure of Personal Information may be required by law;
- (c) of any unauthorised access to or unauthorised disclosure of relevant Personal Information, or a loss of relevant Personal Information, that You hold; or
- (d) of an approach to You by the Commissioner or by a person claiming that their privacy has been interfered with.

**Note:** more information about the Privacy Act, the Australian Privacy Principles and the Notifiable Data Breach Scheme is available at <http://www.oaic.gov.au/>. Your obligations under this clause 14 require You to act in accordance with the Privacy Act and the APPs as if You were an 'Agency'.

## 15. ACCESS TO PREMISES AND RECORDS

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15.1 You must at all reasonable times give, and must take all reasonable steps to ensure that Your Personnel, Providers and Subcontractors give Our Personnel, Our Managing Contractor's Personnel and/or their Subcontractor's Personnel, the Auditor-General and his or her delegates, and any person authorised in writing by Us:

- (a) reasonable access to:
  - (i) Your Personnel, Providers and Subcontractors in connection with the Scheme;
  - (ii) Your Personnel's, Provider's and Subcontractor's workplaces, sites and equipment in connection with the Scheme;
  - (iii) premises occupied by You;
  - (iv) without limiting clauses 15.1(a)(i) and 15.1(a)(ii), accommodation where Workers are placed;
  - (v) all records, Reports and other Material held by You, Your Personnel, Providers and Subcontractors; and
- (b) reasonable assistance to:
  - (i) inspect the performance of Your obligations under this Deed;
  - (ii) to locate and inspect Records, Reports and other Material;
  - (iii) make copies of Records, Reports and other Material and remove those copies,

relevant to the Scheme.

**Note:** *there are additional rights of access in favour of the Fair Work Ombudsman under the Fair Work Act 2009 (Cth), the Commonwealth Ombudsman under the Ombudsman Act 1976 (Cth), the Commonwealth Auditor-General under the Auditor-General Act 1997 (Cth) and the Privacy Commissioner under the Privacy Act 1988 (Cth).*

15.2 The rights referred to in clause 15.1 are subject to:

- (a) the provision of reasonable prior notice to You; and
- (b) Your reasonable security and/or biosecurity procedures (if any),

where We consider it is practicable and appropriate to provide such Notice, or comply with such security and biosecurity procedures (if any), in the circumstances.

15.3 Notwithstanding clause 24.2, 'Notice' under clause 15.2 may be provided by Us to You:

- (a) in writing, including via email; or
- (b) verbally, over the phone, via text message or in person.

15.4 Without limiting clause 15.2, if a matter is being investigated which, in Our opinion, may involve an actual or suspected breach of the law, or We are conducting Program Assurance Activities, clause 15.2 will not apply.

15.5 The requirement for access specified in clause 15 does not in any way reduce Your responsibility to perform Your obligations under this Deed.

## 16. FREEDOM OF INFORMATION AND ACCESS TO DOCUMENTS

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16.1 In this clause 16:

**Commonwealth Contract** has the same meaning as it has in section 4 of the *Freedom of Information Act 1982* (Cth)

**Document** has the same meaning as it has in section 4 of the *Freedom of Information Act 1982* (Cth)

16.2 You acknowledge that this Deed is a Commonwealth Contract.

16.3 Where We have received a request for access to a Document created by, or in the possession of, You, Your Providers or Subcontractors that relates to the performance of this Deed (but not to the entry into this Deed), We may, at any time by written Notice, require You to provide the Document to Us and You must, at no additional cost to Us promptly comply with the Notice.

16.4 Nothing in this clause 16 limits or otherwise affects clause 15 (Access to premises and records).

## 17. DISCLOSURE OF INFORMATION

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17.1 Subject to this clause 17.1 and clause 17.5:

- (a) You must not, without Our prior written approval, disclose any of Our Confidential Information to a third party; and
- (b) We must not, without Your prior written approval, disclose any of Your Confidential

Information to a third party outside the Commonwealth.

- 17.2 In giving written approval to disclosure of Confidential Information, a party may impose conditions as it thinks fit, and the other party agrees to comply with the conditions.
- 17.3 We may at any time give Notice requiring You to arrange for any person engaged in, or in relation to, the performance or management of this Deed to give written undertakings, in a form required by Us, relating to the non-disclosure of Our Confidential Information.
- 17.4 If You receive Notice under clause 17.3, You must promptly arrange for all undertakings to be given.
- 17.5 The obligations on the parties under clause 17.1 will not be breached if information:
- (a) is disclosed by Us to the responsible Minister;
  - (b) is disclosed to relevant Commonwealth departments and agencies (including but not limited to the Department of Home Affairs, the Fair Work Ombudsman, the Department of Foreign Affairs and Trade, Australian Federal Police and Australian Taxation Office or any Commonwealth or State or Territory work health and safety authority) and the governments of a Participating Country as required for the purposes of this Deed;
  - (c) is disclosed by Us, in response to a request by a House or a Committee of the Parliament of the Commonwealth of Australia;
  - (d) is authorised or required by law to be disclosed; or
  - (e) is in the public domain otherwise than due to a breach of clause 17.1.

## **18. DISPUTE RESOLUTION**

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- 18.1 Subject to clause 18.3, the parties agree not to commence any legal proceedings in respect of any dispute arising under this Deed, which cannot be resolved by informal discussion, until the procedure set out in clause 18.2 has been followed.
- 18.2 The parties agree that any dispute between the parties arising under this Deed will be dealt with as follows:
- (a) the party claiming that there is a dispute will send the other party a written Notice setting out the nature of the dispute;
  - (b) the parties will try to resolve the dispute through direct negotiation themselves, or by persons to whom they have given authority to resolve the dispute;
  - (c) the parties have 20 Business Days from the receipt of the Notice to reach a resolution or to agree that the dispute is to be submitted to mediation or other alternative dispute resolution procedures.
- 18.3 If after 20 Business Days from the receipt of the Notice
- (a) there is no resolution of the dispute;
  - (b) there is no agreement on submission of the dispute to mediation or some alternative dispute resolution procedure; or

- (c) there is a submission to mediation or some other form of alternative dispute resolution procedure, but there is no resolution within 15 Business Days of that submission, or extended time as the parties may agree in writing before the expiration of the 15<sup>th</sup> Business Day,

then, either party may commence legal proceedings.

18.4 Clauses 18.1 and 18.2 do not apply if:

- (a) either party commences legal proceedings for urgent interlocutory relief;
- (b) action is taken by Us under clause 20 (Termination without costs) or clause 21 (Termination with costs); or
- (c) an authority of the Commonwealth, a State or Territory is investigating a breach or suspected breach of the law by You.

18.5 Unless otherwise agreed, the parties agree to share equally the cost of any submission of a dispute to mediation or other alternative dispute resolution procedure, in accordance with clause 18.2.

18.6 Despite the existence of a dispute, both parties must (unless requested in writing by the other party not to do so) continue to perform their obligations under this Deed.

18.7 The parties note that the Migration Review Tribunal has jurisdiction to review certain visa decisions. This Deed does not abrogate any rights of review to the Migration Review Tribunal or any other Tribunal performing a similar role in the future.

## **19. SPECIFIED EVENTS AND SUBSEQUENT ACTIONS**

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### **Specified Events**

19.1 You acknowledge and agree that, without limiting or otherwise affecting any of Our other rights in this Deed, We may, in Our absolute discretion:

- (a) issue You a Notice under clause 19.4 (Subsequent action in response to a Specified Event), if We consider, in Our absolute discretion, that any of the Specified Events set out in clause 19.2 or clause 19.3 below are occurring or have occurred; or
- (b) issue You a Notice under clause 20 (Termination without costs), if We consider, in Our absolute discretion, that any of the Specified Events set out in clause 19.3 below are occurring or have occurred.

19.2 The Parties acknowledge and agree that each of the following is a "Specified Event":

- (a) We do not have confidence in Your ability to perform Your obligations under this Deed; or
- (b) We consider that You are failing to perform Your obligations under this Deed to Our satisfaction.

19.3 Without limiting or otherwise affecting clause 19.2, the Parties acknowledge and agree that each of the following is a "Specified Event":

- (a) Your approval as a Temporary Activities Sponsor with the Department of Home Affairs



ceases to be in effect, is suspended, cancelled or is You are barred from holding such approval;

- (b) You fail to be approved as a Temporary Activities Sponsor within twelve (12) months of the Effective Date of this Deed;
- (c) We are satisfied that, prior to entering into this Deed, You have engaged in misleading or deceptive conduct or omitted to provide information to Us either in the Application to become an Approved Employer or otherwise:
  - (i) that is material to the performance of this Deed; or
  - (ii) that may have affected Our original decision to enter into this Deed or any action taken by Us under this Deed;
- (d) We are satisfied that at any time You:
  - (i) provided false or misleading information in a Report, Record or other Material that You had to provide to Us or Our Managing Contractor under this Deed; or
  - (ii) engaged in misleading or deceptive conduct or omitted to provide Us, Our Managing Contractor or any Relevant Agency with information in a Report, Record or other Material,  
  
that may have affected the original decision by Us, Our Managing Contractor or Relevant Agency (as the case may be) to approve or endorse the content of the Report, Record or other Material;
- (e) We consider that You have provided Us, Our Managing Contractor or any Relevant Agency with a Report, Record or other Material which is not true, accurate and complete;
- (f) You are a participant in another Employment Program and:
  - (i) We are satisfied that You provided false or misleading information, or omitted to provide important information, in relation to that program;
  - (ii) Your participation in that program has been suspended or terminated; or
  - (iii) You have substantially failed to comply with your obligations under that program;
- (g) You fail to deliver Reports or Records (or both, as the case may be) in accordance with this Deed, including within the specified time requirements;
- (h) without limiting any other Specified Event in this clause 19.3, We consider that You are in breach of any of Your obligations under this Deed and where such a breach is capable of remedy, You do not remedy the breach within five (5) Business Days of receiving a Notice in writing from Us to do so, or another timeframe as agreed between the Parties;
- (i) We consider that You are in breach of an obligation under this Deed and the breach is not capable of remedy;
- (j) You fail to respond within five (5) Business Days to a Notice sent by Us to You identifying actual or potential breaches of Your obligations under this Deed, or such other longer timeframe specified by Us in the Notice;

- (k) You are issued with three breach Notices in a 12 month period in relation to this Deed, irrespective of whether You remedy those breaches;
- (l) without limiting clause 19.3(q), You fail to pay any of Your workers, including a Worker, any amount (in whole or in part) in accordance with the relevant Fair Work Instrument;
- (m) You are unable to pay all Your debts when they become due;
- (n) any of the following occurs at any time during the Term of this Deed:
  - (i) You fail to comply with a statutory demand within the meaning of section 459F of the *Corporations Act 2001* (Cth);
  - (ii) proceedings are initiated to obtain an order for Your winding up or any shareholder, member or director convenes a meeting to consider a resolution for Your winding up;
  - (iii) You come under one of the forms of external administration referred to in Chapter 5 of the *Corporations Act 2001* (Cth) or equivalent provisions in other legislation, or an order has been made to place You under external administration; or
  - (iv) Notice is served on You or proceedings are taken to cancel Your incorporation or registration or to dissolve You as a legal entity;
- (o) if You are an individual, You become bankrupt or enter into a scheme of arrangement with creditors or are found to be non-compliant with any other Australian laws; or
- (p) You cease to carry on a business relevant to the performance of this Deed;
- (q) We are of the opinion that You have failed to comply with any Australian law or the law of any other country that applies to activities You are engaged in connection with the Scheme;
- (r) without limiting clause 19.3(q), You admit to, are under investigation for, or are charged with, a breach of any of Your statutory obligations (including under the *Fair Work Act 2009* (Cth) or other relevant workplace laws, any relevant Commonwealth, state and territory work health and safety legislation or the *Migration Act 1953* (Cth));
- (s) You fail to Notify Us prior to undergoing a Change in Control, or You undergo a Change in Control which We consider affects Your ability to participate in the Scheme; or
- (t) You, or a director or other office holder of Your organisation, are subject to a criminal investigation or are charged with a criminal offence.

#### **Subsequent action in response to a Specified Event**

19.4 If clause 19.1(a) applies, We may, in Our absolute discretion, issue a Notice to You to do any one or more of the following:

- (a) reduce the scope of an Approved Recruitment;
- (b) direct You to immediately suspend all future recruitment under an Approved Recruitment and not issue any Offers of Employment;

- (c) direct You to immediately suspend the employment of one or more Workers under an Approved Recruitment;
- (d) amend an Approved Recruitment, or approve a Recruitment Application subject to conditions, including in relation to:
  - (i) the recruitment of Workers, including the number of Workers in each Approved Recruitment;
  - (ii) the employment of Workers, including one or more of the following:
    - 1. the number of Workers You can employ at any one time; and
    - 2. the regions in which You can employ Workers;
  - (iii) the accommodation of Workers, including:
    - 1. the types of accommodation You can arrange for Workers to occupy; or
    - 2. the location of accommodation You can arrange for Workers to occupy, or both, as the case may be; or
  - (iv) the arrangements for the welfare and wellbeing of Workers;
- (e) terminate an Approved Recruitment;
- (f) direct You to terminate or reduce the scope of a Provider Arrangement or a Subcontract;
- (g) direct that You stop any of Your Personnel from interacting with Workers or from being involved in activities relevant to the Scheme, and, if We consider it appropriate, immediately organise a suitable replacement to Our satisfaction;
- (h) direct You to remove Workers from a Host Organisation;
- (i) direct that You place Workers with a new Host Organisation;
- (j) direct You to arrange transport for Workers to another location as specified by Us at Your cost;
- (k) reduce the number of Workers You are approved to employ or recruit, permanently or temporarily;
- (l) direct You or a Host Organisation to undertake specified training or accreditation; or
- (m) exercise any of Our other rights under this Deed.

19.5 You must comply with any conditions imposed by Us under clause 19.4.

19.6 Nothing in this clause 19 limits or otherwise affects any of Our other rights under this Deed and otherwise under statute, at law or in equity.

## **20. TERMINATION WITHOUT COSTS**

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20.1 If clause 19.1(b) applies, We may in Our absolute discretion, immediately, or at a later date as specified by Us, terminate this Deed by issuing a Notice to You, without the payment of any

costs.

20.2 To avoid doubt, We are not obliged to exercise any of Our other rights under clause 19.4 or otherwise under this Deed, prior to exercising Our right to terminate under clause 20.1.

## **21. TERMINATION WITH COSTS**

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21.1 We may at any time and in Our absolute discretion, by Notice, terminate this Deed, effective from a date specified in the Notice.

21.2 Subject to clause 21.3, if We terminate the Deed under clause 21.1, We will only be liable for reasonable, unavoidable costs actually incurred and substantiated by You and are directly attributable to the termination of the Deed.

21.3 If We exercise our rights under clause 21.1, We will not be liable for:

- (a) loss of prospective profits attributable to the termination;
- (b) loss of benefits that would have been conferred upon You, had a termination not occurred;
- (c) loss of any unpaid expenses incurred under this Deed that have not been recovered from Workers pursuant to this Deed; and
- (d) payment of any wages or benefits, that are payable to Workers by You.

## **22. TERMINATION BY AGREEMENT**

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22.1 The Parties may at any time agree to terminate this Deed on such terms and conditions as agreed between the Parties in writing, pursuant to clause 27.2 (Variation).

## **23. FORCE MAJEURE EVENT**

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23.1 In the instance of an actual or threatened Force Majeure Event, You agree to take all precautions, measures and actions reasonably within Your control to:

- (a) avoid any delay or failure to carry out any obligations under this Deed;
- (b) remedy the effects of a Force Majeure Event promptly and mitigate any loss suffered as a result of Your failure to carry out any obligations under this Deed (including by the expenditure of funds); and
- (c) minimise or reduce the impact of the Force Majeure Event on Your Workers, including by finding them alternative work to perform within Your Organisation.

23.2 If You become aware of any matter likely to constitute a Force Majeure Event affecting Your performance of any of Your obligations under this Deed, You must notify Us as soon as possible, but no later than the next Business Day, of becoming so aware. The Notice must contain:

- (a) full particulars of the Force Majeure Event, including its nature and likely duration;
- (b) the obligations affected by the Force Majeure Event; and
- (c) a plan on what work-around procedures are being undertaken during the Force Majeure Event, including what alternative work Your Workers may be able to undertake to

enable them to continue to earn an income during the Force Majeure Event or what assistance (financial or otherwise) You intend to provide to Your Workers.

23.3 You must:

- (a) comply with all reasonable directions from Us in relation to the Force Majeure Event, or the effects of the Force Majeure Event so long as such directions are not inconsistent with this Deed;
- (b) take all reasonable steps to avoid being, or to mitigate the extent to which You are, prevented from meeting Your obligations as a result of the Force Majeure Event; and
- (c) keep Us up to date on the Force Majeure Event and Your actions to overcome, or mitigate against the effects of, the Force Majeure Event, including information on what alternative work Your Workers may be able to perform.

23.4 If You are prevented from performing an obligation under this Deed by reason of the Force Majeure Event for which no agreed work-around exists to allow the Deed to be performed, the obligation will be suspended from the date You notify the suspension in respect of that Force Majeure Event, until the cessation of the Force Majeure Event.

## 24. NOTICES

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24.1 A party giving Notice under this Deed must do so in English and be in writing or by Electronic Communication:

- (a) if given by You, marked for the attention of Our Representative at their nominated postal or electronic address; and
- (b) if given by Us, marked for the attention of Your Representative at their nominated postal or electronic address.

24.2 A Notice given under clause 24.1 is taken to be received:

- (a) if sent by Electronic Communication, at the time that would be the time of receipt under the *Electronic Transactions Act 1999* (Cth) if a notice was being given under a law of the Commonwealth;
- (b) if hand delivered, on delivery to the relevant address;
- (c) if sent by pre-paid post, five (5) Business Days after the date of posting.

## 25. TRUSTEE

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25.1 Where You are the trustee of a Trust, You warrant that:

- (a) You are the sole trustee of the Trust; and
- (b) You have full and valid power and authority to enter into this Deed and perform the obligations under it on behalf of the Trust; and
- (c) You have entered into this Deed for the proper administration of the Trust; and
- (d) all necessary resolutions, consents, approvals and procedures have been obtained or duly satisfied to enter into this Deed and perform the obligations under it; and

- (e) You have the right to be indemnified out of the assets of the Trust for all liabilities incurred by You under or in connection with this Deed.

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## **26. NEGATION OF EMPLOYMENT, PARTNERSHIP AND AGENCY**

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- 26.1 You will not, by virtue of this Deed be, or for any purpose be deemed to be, Our employees, partners or agents.
- 26.2 You must not represent Yourself, and must ensure that Your employees, partners, agents or Subcontractors do not represent themselves, as being Our employees, partners or agents.

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## **27. ENTIRE AGREEMENT, VARIATION AND SEVERANCE**

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- 27.1 This Deed records the entire agreement between the parties in relation to its subject matter.
- 27.2 Except for action We are expressly authorised to take elsewhere in this Deed, no variation of this Deed is binding unless it is agreed in writing and signed by the Parties.
- 27.3 If a court or tribunal finds any provision of this Deed has no effect or interprets a provision to reduce an obligation or right, this does not invalidate, or restrict the operation of, any other provision.

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## **28. ASSIGNMENT, NOVATION AND CHANGE IN CONTROL**

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- 28.1 You must not assign any of Your rights under this Deed without Our prior written approval.
- 28.2 You must not enter into an arrangement that will require the novation of this Deed, without Our prior written approval.
- 28.3 You must provide Notification to Us immediately upon becoming aware of any proposed Change in Control.

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## **29. WAIVER**

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- 29.1 If either party does not exercise (or delays in exercising) any rights under this Deed (including rights or remedies provided by this Deed or at law), that failure or delay does not operate as a waiver of those rights.
- 29.2 A waiver by either party of any rights under this Deed does not prevent the further exercise of any other right.
- 29.3 Waiver of any provision of, or right under, this Deed:
- (a) must be in writing signed by the party entitled to the benefit of that provision or right; and
  - (b) is effective only to the extent set out in the written waiver.

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## **30. SURVIVAL OF CLAUSES**

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- 30.1 Clauses 5 through 18, 24, 26, 28 all schedule 1 survive the expiration or earlier termination of this Deed and any provisions that are expressly specified as surviving or by implication from their nature, are intended to continue past the expiration or early termination of this Deed.
- 30.2 Clause 13 (Records) survives for seven (7) years from the expiry or earlier termination of this

Deed.

### **31. APPLICABLE LAW**

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- 31.1 The laws of the Australian Capital Territory apply to this Deed and the parties agree to submit to the non-exclusive jurisdiction of the courts of the Australian Capital Territory in relation to any dispute under this Deed.

## SCHEDULE 1 - Your Obligations as an Approved Employer

### A. General

- A1. In addition to the terms and conditions outlined in this Deed and Schedule, You must:
- (a) act in a manner that maintains the good reputation of the Scheme;
  - (b) act in a manner that supports Australia's strong bilateral relationships with Participating Countries; and
  - (c) perform all obligations as required by You as a Temporary Activities Sponsor with the Department of Home Affairs.

- A2. For the avoidance of doubt, subject to clause 21, no money is payable to You, or to any third party on Your behalf, by Us under this Deed.

#### Guidelines

- A3. Guidelines may be made available to You online (<https://www.pacificlabourmobility.com.au/>) or otherwise Notified by Us or Our Managing Contractor to You.
- A4. You must:
- (a) make yourself aware of any Guidelines; and
  - (b) comply with the Guidelines in the performance of Your obligations under this Deed.

#### Representatives

- A5. Our Representative is:

Position / name: Director  
Pacific Labour Operations Section  
Department of Employment and Workplace Relations

Address: GPO Box 9828  
Canberra ACT 2601

Email: [pacificlabourmobility@dewr.gov.au](mailto:pacificlabourmobility@dewr.gov.au)

- A6. Our Representative has full authority and power to represent Us under this Deed and to issues Notices in accordance with clause 24 of the Deed.

- A7. Your Representative is:

Position / name: [Insert]  
Address: [Insert]  
Telephone: [insert]  
Email: [Insert]



- A8. Your Representative has full authority and power to represent You under this Deed and to issues Notices in accordance with clause 24 of the Deed.

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**B. Recruitment and selection**

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B.1 You must only recruit workers for participation in the Scheme:

- (a) from Participating Countries;
- (b) that meet the Programme Eligibility Requirements set out in the Implementation Arrangements;
- (c) who are granted a Subclass 403 (Temporary Work (International Relations)) visa in the Pacific Labour Scheme stream;
- (d) who have a genuine intention to return to their home country following their participation in the Scheme and prior to the cessation of their Subclass 403 (Temporary Work (International Relations)) visa in the Pacific Labour Scheme stream;

and in accordance with:

- (e) the Implementation Arrangements; and
- (f) this Deed.

**Recruitment**

B.2 To recruit Workers under this Deed, You must first submit a Recruitment Application to Us or Our Managing Contractor and received Our or Our Managing Contractor's Approval in writing of the Recruitment Application under B5.

B.3 A Recruitment Application must adhere to the Guidelines and include the following information:

- (a) Your level of demand for Workers and evidence of labour market testing. Your labour market testing must comply with our Labour Market Testing Policy (available from Us or Our Managing Contractor);
- (b) Your intended recruitment arrangements for Workers, including how many Workers You are seeking to employ; the proposed type and length of work placements for Workers; pastoral care arrangements for Workers; likely costs to the Worker that will be recovered through wage deductions; and employment conditions for Workers;
- (c) Your proposed accommodation for Workers for their first three (3) months in Australia (You should consult Our Managing Contractor on Your proposed accommodation prior to submitting Your Recruitment Application; the accommodation proposed must be suitable for occupancy in accordance with the standards relevant to that type of accommodation and for the number of Workers You propose to reside in the accommodation); the accommodation proposed must also comply with any work, health and safety legislation or state and territory Government and local government legislation and codes that may apply to such accommodation;
- (d) a draft of the Offer of Employment letter relevant to the recruitment plan being submitted (in accordance with Item C of Schedule 1); and

(e) any other information Notified to You by Us.

**Note:** *Our approval of a Recruitment Application (i.e., under an Approved Recruitment) can be referred to as “approved recruitment”.*

- B.4 We may, by Notice, require You to provide further information or detail in relation to any aspect of a Recruitment Application.
- B.5 We or Our Managing Contractor may at Our sole and absolute discretion, approve or reject a Recruitment Application by informing You in writing of such approval or rejection.
- B.6 In approving any Recruitment Application, We may, in Our absolute discretion, require any amendments or impose any terms and conditions on the relevant Approved Recruitment, including setting a date for the expiry of any Approved Recruitment.

#### **Alterations to Recruitment arrangements**

- B.7 If You intend to alter any aspect of Your arrangements for Workers, as outlined in Your Approved Recruitment and approved Offer of Employment You must submit Your proposed changes to Us in writing for Our approval prior to implementing those changes.
- B.8 Any proposed change relating to amendments to the existing employment conditions of Workers must be in accordance with Australian law, including any applicable modern award and are subject to the written agreement of any Worker affected by the amendments.

#### **Meaning of approval under this Item**

- B.9 For the avoidance of doubt:
- (a) the granting of approved recruitment or Offer of Employment is at Our discretion and nothing in this Deed shall be taken to give rise to an expectation that an approved recruitment or Offer of Employment will be approved; and
- (b) Our approval is for the purposes of Scheme requirements only and does not relieve You of any obligation You have to ensure that those documents and the terms and conditions of employment they prescribe, are in accordance with Your obligations under Australian law, including Australia’s workplace laws and work, health and safety laws.

#### **Compliance with approved Recruitment and approved Offer of Employment**

- B.10 You must:
- (a) only recruit in accordance with Your Approval of Recruitment pursuant to Item B2; and
- (b) only employ Workers in accordance with terms and conditions consistent with Your Offer of Employment, approved by Us pursuant to Item B3 and outlined at Item C (as such terms may be amended from time to time in accordance with Item B7).

**Note:** *Item B10(b) does not override Your obligation to comply with Australian laws.*

#### **No recruitment after termination or expiry**

- B.11 You must not recruit Workers:
- (a) after the termination or expiration of Your approved recruitment;

- (b) the expiration or termination of this Deed; or
- (c) in the event Your approval as a Temporary Activities Sponsor with the Department of Home Affairs ceases to be in effect, is cancelled or is barred.

### **C. Offer of Employment**

---

C.1 All Offers of Employment to a Worker must be made in writing, in a form specified or approved by Us and must comply with the requirements set out in this Item C and under Australian law.

C.2 All Offers of Employment must contain:

- (a) the Worker's pay rate and conditions;
- (b) details of the Fair Work Instrument the Worker will be employed under;
- (c) the commencement date and length of the employment;
- (d) Worker's employment type, noting casual employment is excluded;
- (e) Your commitment to provide a minimum of thirty (30) hours per week for the duration of the employment contract; or
  - (i) where modern awards allow for averaging of hours, Your commitment to provide a minimum average of thirty (30) hours per week in accordance with the relevant Award, including an explanation of expected patterns of work; or
  - (ii) where no modern award covers Your industry (e.g. fishing), Your commitment to provide the equivalent of a minimum average of thirty (30) hours of work per week over a four (4) week period, communicated through a proposed schedule of work;
- (e) a notification that employment is subject to the Worker candidate being successful in their application for a Temporary Work (International Relations) visa (subclass 403) – Pacific Labour Stream;
- (f) the location and contact details of their workplace, as a minimum;
- (g) information about the provision of welfare and wellbeing care that will be provided by You;
- (h) specific information about the on-arrival financial assistance You will provide in the form of a cash advance to assist the Worker with settling in (note: this financial assistance must be adequate to meet the on-arrival Worker's support requirements and must not be less than AUD 150.00);
- (i) specific information about any deductions You propose to make (subject to the Worker's agreement) from the Worker's wages; and
- (j) any other information Notified to You by Us.

C.3 The Offer of Employment must also include:

- (a) details of travel arrangements for the Worker, including:
  - (i) proposed date of travel to and from the Participating Country;

- (ii) Port of Arrival; and
- (iii) domestic transfer arrangements;
- (b) details of their compulsory health insurance (including details of coverage);
- (c) details of Accommodation Arrangements You are offering to Workers; and
- (d) information about community contacts and opportunities for recreation and religious observance at their location.

C.4 A copy of the Fair Work Information Statement must be provided with all Offers of Employment.

## **D. Employment**

---

D.1 You must:

- (a) employ Workers under a Fair Work Instrument in accordance with the *Fair Work Act 2009* (Cth);
  - (i) it is Your responsibility to ensure You are employing Workers under the correct instrument. You can check this with the Fair Work Ombudsman by emailing them at [pacificlabourscheme@fwo.gov.au](mailto:pacificlabourscheme@fwo.gov.au);
- (b) engage Workers as employees in accordance with Australia's workplace laws, including:
  - (i) ensuring that the Workers You employ hold any licence, registration or membership that is mandatory for the performance of the specific work they will perform in Australia;
  - (ii) in accordance with Australian superannuation legislation in relation to Your employment of Workers;
  - (iii) ensuring that tax instalments are deducted from the wages of Workers and paid in accordance with Australian taxation laws; and
  - (iv) ensuring all statutory charges that You are required to pay in relation to the Workers, including workers' compensation insurance, are paid;
- (c) ensure that:
  - (i) workers are employed for a minimum of thirty (30) hours per week for the duration of the employment contract; or
  - (ii) where modern awards allow for averaging of hours, You commit to provide a minimum average of thirty (30) hours per week in accordance with the relevant Award, including an explanation of expected patterns of work; or
  - (iii) where no modern award covers Your industry (e.g. fishing), You commit to provide the equivalent of a minimum average of thirty (30) hours of work per week over a four (4) week period through a proposed schedule of work; and

- (iv) the rate of pay provided to the Workers must in all circumstances meet the relevant legal standards such as the minimum requirements set out in the relevant Award / Industrial Instrument;
- (d) provide all Personal Protective Equipment required under work health and safety laws and necessary for the occupations, such as uniforms, shoes or clothing;
- (e) subject to B.7, only engage Workers as outlined in the approved recruitment and Offer of Employment approved by Us and signed by the Worker;
- (f) provide information, instructions, training and supervision to Workers in a format and language that can be understood by the Workers; and
- (g) as part of Your welfare and wellbeing responsibilities, provide a reasonable level of assistance to Workers in the event that Workers are unable to afford medical treatment, or are under circumstances that pose a risk to a Workers' welfare and wellbeing. The assistance provided must be fair, transparent, and agreed to by the Worker.

## **E. Expenses and deductions**

---

- E.1 You must assist with directly financing Workers' pre-departure and on arrival costs (including via providing small financial advances to Workers) in order to meet Our minimal standards of Worker support requirements. This may include but is not limited to:
- (a) airfares for travel to Australia and the cost of travel from the Port of Arrival in Australia to the location in which the Worker will be accommodated (any travel coordinated without the assistance of Our Managing Contractor must be by the most cost-effective travel route, booked as far in advance as possible and dates of travel must be provided to Our Managing Contractor within two (2) Business Days of making the booking);
  - (b) costs incurred to secure the visa and work in Australia, including the cost of obtaining a passport, health insurance, health checks and/or x-rays, police and/or character checks in Australia and home countries;
  - (c) provision of on-arrival worker cash advance, to assist workers with the purchase of necessary personal effects (e.g. bedding), food, and/or costs associated with the establishment of appropriate and necessary telecommunications (e.g. purchase of mobile phone/sim card);
  - (d) items that are not considered Personal Protective Equipment under work health and safety laws but are necessary for the occupations, such as uniforms, shoes or clothing; and
  - (e) any other expense that is authorised by law, such as *Fair Work Act* or applicable industrial instruments, or agreed to by Us.
- E.2 Any assistance with the above costs provided by You must be explained and done with the written agreement of the Worker; be reasonable; not result in a Worker having an inadequate amount of money remaining in their pay packet for reasonable living expenses; and in accordance with the *Fair Work Act*. Where this occurs, these costs may be recovered over a minimum period of twelve (12) weeks via deductions from their pay. You can only deduct money from a Worker's pay if:
- (a) the Worker agrees in writing and it is principally for their benefit;

- (b) it is allowed by a law, a court order, or by the Fair Work Commission; or
  - (c) it is allowed under the Worker's award; or
  - (d) it is allowed under the Worker's registered agreement and the Worker agrees to it.
- E.3 A Worker's written agreement must be genuine. The Worker cannot be forced to agree to a deduction. Itemised deductions must also be shown on the Worker's payslip and time and wages records.
- E.4 Notwithstanding anything else in this Item, You must not charge Workers or deduct from Workers' wages, any expenses that are not authorised pursuant to Item E1, or expenses that are incurred by You in meeting Your statutory obligations and Your obligations under this Deed. Such expenses include, but are not limited to expenses in relation to:
- (a) the selection, recruitment and arrangement of accommodation and transport for Your Workers;
  - (b) travel to Participating Countries;
  - (c) obtaining a license to recruit from a Participating Country, if one is required;
  - (d) using a recruitment agent to recruit on Your behalf and any associated costs incurred or on-charged by the recruitment agent;
  - (e) measures, training and personal protective equipment for work health and safety; and
  - (f) administrative expenses incurred by You in relation to participation in the Scheme, including but not limited to, time spent arranging pay slips, briefings, dispute resolution and community engagement for Workers.
- E.5 You must not offer Workers any inducement other than what will be offered under the terms of the Offer of Employment and the assistance which must be provided to Workers under this Deed.
- E.6 You must provide regular payslips to Workers in accordance with statutory requirements, which clearly set out gross pay, itemised deductions, tax, superannuation and net pay. You must instruct Workers on how to correctly read their payslip.

## **F. Welfare and well-being of Workers**

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- F.1 To contribute to worker welfare and well-being, You will work closely with Our Managing Contractor to:
- (a) obtain necessary cultural competencies in working with Pacific Islanders, with this including You, subject to any reasonable request by Our Managing Contractor, completing relevant online or face-to-face training as endorsed by Our Managing Contractor; and
  - (b) ensure the effective provision of relevant arrival briefing information and/or material as endorsed by Our Managing Contractor. This will include You, subject to assessment of required support and relevant instruction and guidance from Our Managing Contractor, being responsible for directly providing on-arrival worker briefings as part of any mobilisation.

F.2 You must:

- (a) not infringe upon Workers' lawful ability to associate and move freely and unhindered outside of working hours;
- (b) where relevant community stakeholders are identified, work closely with Our Managing Contractor to develop opportunities for Workers to establish appropriate connections;
- (c) ensure that Workers know how, and have the ability, to contact 000 and connect to the emergency service required;
- (d) assist Workers to access medical and allied health services when required;
- (e) ensure that Workers have and maintain arrangements for health insurance during the period of stay in Australia, including continuing payment of an absconded Worker's health insurance for a maximum period of twenty-eight (28) calendar days or until the Worker's visa has been cancelled by the Department of Home Affairs;
- (f) assist Workers to regularly access opportunities for recreation and religious observance;
- (g) take any additional reasonable steps to ensure the welfare and wellbeing of Your Workers;
- (h) monitor the progress, placement and wellbeing of all Workers on a regular basis;
- (i) work closely with the Managing Contractor to allow physical access to the Workers, access to Workers' accommodation and to the workplace itself;
- (j) assist Workers to participate in approved Australian Government funded training while in Australia and allow Workers to attend training sessions, as agreed with Us;
- (k) make employer representatives (supervisors, etc) available to discuss Workers' employment progress, settling-in issues, or any other matters on a regular basis;
- (l) communicate regularly with Us or Our Managing Contractor to ensure issues are resolved quickly and efficiently;
- (m) provide to Us or Our Managing Contractor information relating to Workers' performance in the workplace (awards, recognition etc); and
- (n) actively participate in monitoring and evaluation activities, if requested by Us or Our Managing Contractor.

F.3 If You are a labour hire company or contractor, You are responsible for ensuring that the Worker's Host Organisation also meet the requirements set out in F2.

**G. Pre-departure and on-arrival briefings for Workers**

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G.1 You must contribute information and materials relevant for Workers You employ (including information on the local area they will be living while in Australia, the type of work to be performed, the place of employment of Workers and what they can expect in Australia) to pre-departure briefings for Workers in the relevant Participating Country conducted by the government of that country or Our Managing Contractor. This information should be provided when the recruitment plan is submitted.

- (a) If You are a labour hire company, You are responsible for obtaining the information sought under G1 from the Host Organisation and providing it to Us or Our Managing Contractor.
- G.2 You must ensure Your recruitment and mobilisation timeline allows Workers to attend a pre-departure briefing. Workers should not be departing until they have attended a pre-departure briefing.
- G.3 If travel arrangements are made without the assistance of Our Managing Contractor, travel arrangements must be shared with Our Managing Contractor within two (2) business days of booking and/or prior to Workers arrival. If Us or Our Managing Contractor are required to provide or be jointly involved with You in delivery of Worker arrival briefings, You must allow Us or Our Managing Contractor appropriate access to Workers for the purposes of providing the arrival briefing. Unless otherwise agreed by Us or our Managing Contractor, access must occur no later than two (2) weeks after the Worker arrives in Australia and must allow the arrival briefing to be provided to all mobilised Workers at the one time.
- G.4 You must ensure Workers receive an induction on commencing work, which includes information on work, health and safety arrangements and skills training for each place of work.

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**H. Worker mobilisation plan**

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- H.1 To ensure Your Workers experience a safe and appropriate transition into Australia and their place of employment, You must:
- (a) comply with Our Guidelines detailing the minimal standards of requirements for the safe and appropriate transition of Workers into Australia;
  - (b) develop and submit to Us or Our Managing Contractor for approval, a Worker Mobilisation Plan detailing how You will meet the minimal standards of requirements for the safe and appropriate transition of Workers into Australia and their place of employment;
  - (c) upon Our or Our Managing Contractor reasonable request, amend or make additions to Your Worker Mobilisation Plan and resubmit that plan for approval;
  - (d) provide the Worker Mobilisation Plan to Us or Our Managing Contractor at least five (5) Business Days in advance of any of Your Workers' arrival in Australia;
  - (e) confirm to Us or to Our Managing Contractor of the Workers' arrival into Australia within five (5) days of the Worker arriving in-country; and
  - (f) comply with any reasonable request by Us or Our Managing Contractor for assistance with Our ongoing monitoring, compliance and training/development requirements relating to pre-departure and on-arrival activities.
- H.2 Our Managing Contractor will assist You with planning and undertaking Your Worker mobilisations. Subject to assessment of support needs, this assistance may include direct or virtual mobilisation support by Our Managing Contractor.

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**I. Banking, taxation and superannuation**

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- I.1 You must facilitate access to personal banking for each Worker, including assisting each Worker with setting up an Australian personal bank account (if necessary).



- I.2 You must assist each Worker to apply for a tax file number and establish a superannuation account.
- I.3 You must perform Your obligations under Items I.1 and I.2 within five (5) Business Days of the relevant Worker's arrival in Australia.

**J. Departure to sending country**

---

- J.1 You must assist Workers to prepare to return home at the conclusion of their stay in Australia, including providing Workers with information on how to claim their superannuation.
- J.2 You must assist the Workers You employ or have employed to depart Australia before their Subclass 403 (Temporary Work (International Relations)) visa in the Pacific Labour Scheme stream expires.
- J.3 You must provide Workers with a face to face, in person, departure briefing that complies with a checklist of the requirements in accordance with the Guidelines.

## Signatures

**EXECUTED** by the Parties as a Deed.

**SIGNED, SEALED AND DELIVERED** for  
on behalf of the **Commonwealth of  
Australia** represented by the  
Department of Employment and  
Workplace Relations (ABN 96 584 957  
427):

\_\_\_\_\_  
^Name of signatory^

\_\_\_\_\_  
*Signature*  
*Date*

\_\_\_\_\_  
Position

In the presence of:

\_\_\_\_\_  
^Name of witness^

\_\_\_\_\_  
*Signature of witness*  
*Date*

**NOTE:** Choose the appropriate signature block for the Approved Employer from the alternatives below and delete the others and all text boxes (similar to this one).

Where Approved Employer is a **company** use the following:

**SIGNED SEALED AND DELIVERED** for and  
on behalf of (^**insert company name**)  
(^**insert company ACN or ABN**) in  
accordance with the requirements of  
section 127 of the *Corporations Act 2001*  
by:

\_\_\_\_\_  
Name of Director

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Date*

In the presence of:

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
*Signature of witness*

\_\_\_\_\_  
*Date*

And by

\_\_\_\_\_  
Name of Director/Secretary

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Date*

In the presence of:

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
*Signature of witness*

\_\_\_\_\_  
*Date*

Where Approved Employer is a **partnership** use the following:

**SIGNED SEALED AND DELIVERED** by:

\_\_\_\_\_  
Name of partner

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
Name of partner

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Date*

who by signing warrants that they have authority to bind (^**insert name of any other co-partner(s) of partnership**)

In the presence of:

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
*Signature of witness*

\_\_\_\_\_  
*Date*

Where Approved Employer is an **incorporated association** use the following:

**SIGNED SEALED AND DELIVERED** for and on behalf of (^**insert Association name**) (^**insert ABN**) by:

\_\_\_\_\_  
Name of Committee member

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Date*

In the presence of:

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
*Signature of witness*

\_\_\_\_\_  
*Date*

Where the Approved Employer is a **company** entering into this Deed as trustee of a Trust, use the following:

**SIGNED SEALED AND DELIVERED** for and on behalf of (^**insert company name**) (^**insert company ACN or ABN**) in accordance with the requirements of section 127 of the *Corporations Act 2001* as trustee of ^**insert name and ABN of Trust**^ by:

\_\_\_\_\_  
Name of Director

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Date*

In the presence of:

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
*Signature of witness*

\_\_\_\_\_  
*Date*

And by

\_\_\_\_\_  
Name of Director/Secretary

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Date*

In the presence of:

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
*Signature of witness*

\_\_\_\_\_  
*Date*