

# VICTORIAN COMMON FUNDING AGREEMENT

## Short Form

Ref: <TRIM number>

### Details

**Department:** Department of Justice and Regulation

Primary contact: <Name>

Address: <Department Address>

Phone: <Department Phone Number>

Email: <Department Email>

Facsimile: 03 8684 1400

**Recipient:** <Organisation Name>

Primary contact: <Name>

Address: <Organisation Address>

Phone: <Organisation Phone Number>

Email: <Organisation Email>

Facsimile: n/a

**Activity Name:** <Service/Project Name>

**Funding Program:**

This funding agreement (**this Agreement**) is a legally binding contract between the Recipient and the Department.

By signing and returning this Agreement to the Department, You will accept the offer of funding in this Agreement and agree to the terms and conditions set out within.

This Agreement will commence from the date it is last signed and will end once You have completed the Activity and all other Deliverables/Milestones specified in this Agreement to the reasonable satisfaction of the Department.

In this Agreement:

- > Details, Parts A, B, Execution and any attachments form the Agreement between You and the Department, and constitute the entire agreement between the parties and supersede prior representations, contracts, statements and understandings in relation to its subject matter.
- > **We, Us** and **Our** means the **Department** specified in the Details and includes Our officers, delegates, employees, other contractors, agents and successors.
- > **You** and **Your** or the **Organisation** means the **Recipient** specified in the Details, and includes Your officers, employees, agents, volunteers, subcontractors and successors.
- > **Activity** means any tasks, services, project or other purposes for which the Funding is provided as described in the Details and clause 3 of Part A.
- > **Funding** means money the Department provided to the Recipient under this Agreement.
- > **Business Day** means a day other than a Saturday, Sunday or public holiday appointed under the *Public Holidays Act 1993* (Vic).

## Part A: Terms and Conditions

### 1. Start Date and End Date

The Activity must start by <DD/MM/YYYY> (the **Start Date**) and be completed by <DD/MM/YYYY> (the **End Date**).

### 2. Amount of Funding: \$<funded amount> (excluding GST).

### 3. This Funding is provided to:

[Insert Activity as described in Application/Eligibility requirements statement OR Short description of Activity – free text]

You agree to perform each and every Deliverable/Milestone contained in the *Activity Deliverables and Payments Table* by the Due Date set out in that table to Our reasonable satisfaction.

<b>Activity Deliverables and Payments Table</b>					
(Note: GST AMOUNT and TOTAL PAYMENT columns are optionally completed)					
<b>Deliverable or milestone</b>	<b>Demonstrating the deliverable is complete</b>	<b>Due date</b>	<b>Payment amount (excluding GST)</b>	<b>GST amount</b>	<b>Total payment amount (including GST)</b>
Deliverable 1, Common Funding Agreement Short Form	Two copies of the Common Funding Agreement Short Form returned  The Department will issue a recipient created tax invoice	<DD/MM/YYYY>	\$<Payment amount>	\$<GST>	\$<Total amount>
Deliverable 2, Final Report (see Attachment C)  Completed project works	<Insert indicator>	<DD/MM/YYYY>	\$<Payment amount>	\$<GST>	\$<Total amount>

### 4. To meet Your Reporting Requirements You must complete and send to Us any Report that is specified in the *Activity Deliverables and Payments Table* at clause 3.

### 5. You must:

- keep accurate records, including all receipts and tax invoices, in relation to the Activity and for everything You purchase with the Funding** in accordance with the requirements set out in Part B, if any; and
- provide access to, and copies of, the records** at any time to Us or a third party authorised by Us.

### 6. You must:

- use the Funding only for the Activity in accordance with this Agreement or as otherwise agreed in writing by Us;
- comply with all applicable laws and departmental policies in connection with the Funding, the Activity or this Agreement; and
- follow Our reasonable directions in connection with the Funding, the Activity or this Agreement.

- 7. You must let Us know in writing within 5 Business Days from when You become aware if:**
- You no longer meet the eligibility requirements for the Funding, if any;
  - there is an actual or perceived conflict of interest that may impact on Your ability to deliver the Activity;
  - You will not complete the Activity; or
  - You will not spend the total amount of the Funding.
- 8. You need Our written consent to:**
- use any of the Funding for anything other than the Activity or in any way that is not in accordance with this Agreement;
  - change the Deliverables/Milestones, Start Date or End Date of the Activity; or
  - change the reporting requirements, if there are any.
- 9. You agree to repay all or part of the Funding**, in accordance with any written request from Us to do so, if:
- there is unspent Funding at the completion of the Activity;
  - You do not use the Funding in accordance with this Agreement.
- 10. You will acknowledge any Funding support provided by the Victorian Government:**
- as specified in any applicable Departmental policy;
  - according to the *Acknowledgement and Publicity Guidelines* as amended from time to time, which can be found at Attachment B or
  - as described in Part B.
- 11. Unless a recipient created tax invoice (RCTI) arrangement is in place, You will submit an invoice to Us** that complies with tax legislation (including *A New Tax System (Goods and Services Tax) Act 1999* (Cth)) for each Deliverable/Milestone that is linked to a payment in the table at clause 3. Invoice arrangements are described at Part B of this Agreement.
- 12. Clauses 5, 9 and 10 and any clauses identified in Part B will continue to apply after the end of this Agreement.**

## Part B: Additional Conditions

### 13. Additional conditions that apply to this Agreement

- **Intellectual Property**

For the purposes of this Agreement:

(a) 'Intellectual Property' includes:

- all copyright (including rights in relation to all documents, reports, charts, drawings, data bases, software, source codes, models, systems, slides, tapes and specifications);
- all copyright and all rights in relation to inventions (including registered and registrable patents), registered and unregistered trade marks, registered and unregistered designs, circuit layouts, and know-how; and
- all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields.

(b) 'Background Intellectual Property' means the Intellectual Property of a party which was either created:

- (i) before the Start Date; or
- (ii) independently of this Agreement,

and all improvements to such Intellectual Property by the party.

- (c) 'Activity Intellectual Property' means all Intellectual Property (excluding Background Intellectual Property) developed, created, discovered, brought into existence or otherwise acquired (other than from Us) by You under this Agreement.
- (d) 'Licence' means a non-exclusive, world-wide, everlasting, irrevocable, royalty free licence to exercise all rights in relation to the Intellectual Property it applies to as if the licensee were the owner, including the right to sub-license. A Licence does not include the right to transfer or assign the Intellectual Property, or to seek or enforce remedies for infringements of the Intellectual Property against a third party.
- (e) 'Third Party Intellectual Property' means any Intellectual Property owned or created by a third party other than You or Us.

All Intellectual Property created in performing this Activity vests in Us.

We grant a Licence, and You accept that Licence over the Activity Intellectual Property and the Background Intellectual Property and any Third Party Intellectual Property, subject to Our ability to grant the Licence of Third Party Intellectual Property, to the extent that the Licence is needed to allow You to enjoy the full benefit of the Activity and this Agreement.

You will make available at no fee all or part of the Intellectual Property the subject of the Licence in such manner and at such time as We request

You warrant to Us that any Intellectual Property provided by You to Us and embodied or used by You in connection with the Activity is either Your sole property or is Third Party Intellectual Property that You are legally entitled to use for the purpose of the Activity in a manner consistent with absolute ownership.

You will obtain all consents needed for any Licence granted under this Agreement, including in relation to any moral rights.

You indemnify and will keep indemnified Us against any action, claim, suit or demand arising out of, connected with, or in respect of any breach of a third party's rights in relation to any Intellectual Property.

The rights and obligations in this Agreement in relation to Intellectual Property continue to apply after the end of this Agreement

- **Standards and Permits**

Funding of an Activity does not constitute a permit from Us or from Local Government Authorities. You are responsible for obtaining all necessary permits required in relation to the Activity including but not limited to the following:

- (a) Any planning permits that are required
- (b) Any building permits that are required

- **Breach**

Non-compliance or failure by You to perform any of these conditions may constitute a breach of this agreement. In particular, You will breach this agreement if You:

- (a) Fail to comply satisfactorily with the reporting requirements set out in this agreement, as required.
- (b) Misappropriate or misuse the funding payment in any way;
- (c) Refuse to provide any information as may be required under this agreement.
- (d) Knowingly accept the payment in the knowledge that You cannot meet one or more of the conditions of this Agreement.
- (e) Fail to advise the Department during the duration of the Activity in line with the notification requirements of this agreement.

- **Evaluation**

You must provide additional information that We request in relation to the evaluation of the program through which the grant Funding is provided. We must make only reasonable requests and should give notice of at least 20 (twenty) Business Days.

- **Policies**

Under the Working with Children Act 2005 people engaging in “child-related work” must apply for and pass the Working with Children (WWC) Check. The Organisation (its staff and volunteers) must meet all requirements of the WWC Check that are relevant to this Activity.

- **Tax Requirements and Definitions**

The parties agree:

- (a) to enter into a recipient created tax invoice (RCTI) arrangement;
- (b) We can issue tax invoices in respect of the supplies by You to Us under this Agreement;
- (c) You will not issue tax invoices in respect of the supplies by You to Us under this Agreement;
- (d) You acknowledge and warrant that You are registered for GST when You enter into this Agreement; and
- (e) if You cease to be registered for GST, You will notify Us in writing within 5 Business Days.

If this RCTI arrangement is unable to be implemented or ceases, You will issue invoices in respect of the supplies by You to Us under this Agreement

#### **14. Attachments**

- A. Application Project Plan
- B. Acknowledgement and Publicity Guidelines
- C. Final Report Template

## Execution

**SIGNED** for and on behalf of the STATE OF VICTORIA represented by and acting through the Department of Justice and Regulation, ABN 32 790 228 959, by:

Name and position of authorised representative

Julianne Brennan

Director Community Crime Prevention Unit

Sign here: .....

Date:

### Witness

Name of Witness

Sign here: .....

Date:

SIGNED for and on behalf of <Organisation Name>, <ABN> <number>, by the following authorised delegates of <Organisation Name>.

### Complete this section including your name and position details

Name and position of authorised representative

Sign here: .....

Date:

Name and position of second authorised representative

Sign here: .....

Date: