

FUNDING AGREEMENT GENERAL TERMS

**relating to financial assistance available under
Multicultural Affairs Queensland funding programs and initiatives**

between

**STATE OF QUEENSLAND
through the
Department of Women, Aboriginal and Torres Strait Islander
Partnerships and Multiculturalism**

and

<Company/Department>

FUNDING AGREEMENT GENERAL TERMS

Between: **STATE OF QUEENSLAND** through the Department of Women, Aboriginal and Torres Strait Islander Partnerships and Multiculturalism of Level 20, 111 George Street BRISBANE QLD 4000

(‘We’, ‘Us’, ‘Our’)

and: <Company/Department> of <Street Address > <STREET SUBURB> QLD <POSTCODE>

(‘You’, ‘Your’)

BACKGROUND

- A. Through Multicultural Affairs Queensland, We administer funding programs and initiatives which seek to improve outcomes for Queenslanders from culturally diverse backgrounds, including migrants, refugees, and asylum seekers, as well as Queenslanders in established communities, and assist in building safe, caring and connected communities across Queensland.
- B. The Parties have agreed to enter into these Funding Agreement General Terms to provide the standard terms under which We may grant funding to You under Multicultural Affairs Queensland funding programs and initiatives.
- C. We will pay Approved Funding to You in accordance with the Funding Agreement.
- D. You will undertake the Funded Activity and expend and acquit all the Approved Funding You receive from Us in accordance with the Funding Agreement.

AGREED TERMS

1. DEFINITIONS

- 1.1. In the Funding Agreement, unless the context indicates otherwise, the following definitions apply:

“**Acknowledgement Guidelines**” means the funding acknowledgement guide as published on Our website as amended, renamed or replaced from time to time.

“**Approved Funding**” means the maximum amount of funding payable to You under the Funding Agreement as specified in the Funded Activity Particulars.

“**Business Day**” means a day that is not a Saturday or Sunday or a public holiday, special holiday or bank holiday in the place in which any relevant act is to be or may be done.

“**Claim**” includes any claim, action, proceeding, demand, liability, obligation, costs, loss, damages and expenses, including legal expenses.

"Confidential Information" means all information, trade secrets and knowledge of or disclosed by a Party (**Discloser**) to another Party (**Recipient**) that:

- (a) is by its nature confidential;
- (b) is designated or marked by the Discloser as confidential; or
- (c) the Recipient knows or ought to know is confidential,

but does not include the Funding Agreement or notices given under the Funding Agreement or information which:

- (d) is or becomes public knowledge other than by breach of the Funding Agreement or any other confidentiality obligation;
- (e) is independently developed by a party while having no knowledge of or access to the other Party's Confidential Information;
- (f) the Recipient can prove was in its possession at the time of first disclosure to it by the Discloser and was not acquired directly or indirectly from the Discloser; or
- (g) a party receives from a third party, provided that as far as the receiving party is aware (without the need for enquiry), it was not received directly or indirectly from the third party in breach of an obligation of confidence owed by the third party to any other person.

"Eligible Expenditure" means the expenditure on items directly related to the delivery of a Funded Activity and as otherwise specified in the Funded Activity Particulars.

"Funded Activity" means the activity, event, or project specified as being the funded activity in the Funded Activity Particulars.

"Funded Activity End Date" means the Funded Activity end date specified in the Funded Activity Particulars.

"Funded Activity Particulars" means the document titled Funded Activity Particulars which specifies the funding particulars for each Funded Activity.

"Funded Activity Start Date" means the Funded Activity start date specified in the Funded Activity Particulars.

"Funding Agreement" is comprised of:

- (a) these Funding Agreement General Terms;
- (b) the Funded Activity Particulars;
- (c) the Funding Program Guidelines; and
- (d) Your completed application for the Approved Funding.

"Funding Agreement General Terms" means this document and all schedules to it.

"Funding Period" starts on the Funded Activity Start Date and, unless terminated earlier, ends on the Funded Activity End Date.

“Funding Program” means the Multicultural Affairs Queensland Funding Program or initiative specified in the Funded Activity Particulars.

“Funding Program Guidelines” means the Funding Program guidelines specified in the Funded Activity Particulars.

“GST Act” means *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

“GST Amount” means the amount of GST on a Taxable Supply calculated at the rate of GST applicable at the time that the Taxable Supply is made.

“Improvements” means the building and other improvements on and to be constructed on the Land.

“Ineligible Expenditure” means expenditure which is not Eligible Expenditure, or expenditure which is specified as being ineligible expenditure in the Funded Activity Particulars.

“Information Privacy Act” means the *Information Privacy Act 2009* (Qld).

“Instalment” means an instalment of the Approved Funding.

“Instalment Date” means the date for payment of an Instalment specified in the Funded Activity Particulars.

“Intellectual Property” includes all copyright (including any future copyright), moral rights, all rights in relation to inventions (including patent rights), plant varieties, registered and unregistered trade marks (including service marks), registered designs, confidential information (including trade secrets and know-how), circuit layouts and all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields as a result of the use of the Approved Funding in an Approved Funded Activity.

“Land” means the land specified in the Funded Activity Particulars.

“Minimum Design Requirements” mean Our minimum design requirements as specified in the Funded Activity Particulars.

“Party” means a party to the Funding Agreement.

“Personal Information” has the same meaning as contained in the *Information Privacy Act*.

“Practical Completion” is achieved on the date upon which:

- (a) the Improvements are fit for use and occupation by You for the Funded Activity; and
- (b) construction of the Works are complete, except for minor omissions and minor defects that do not affect use and occupancy of the Improvements; and
- (c) all relevant statutory requirements in respect of the Funded Activity have been complied with and the relevant approvals or certificates for those requirements have been obtained by You.

“Practical Completion Date” means the Practical Completion date specified in the Funded Activity Particulars.

“Security” means a first priority mortgage, in a registerable form, over the Land in Our favour on the terms satisfactory to Us, that will rank first in priority unless otherwise agreed in a Tripartite Deed.

“Security Delivery Date” means the security delivery date specified in the Funded Activity Particulars.

“Special Conditions” means any special conditions relevant to the Funded Activity as specified in the Funded Activity Particulars.

“Taxable Supply” has the same meaning as in the GST Act;

“Tripartite Deed” means a deed between Us, You, and a financier approved by Us, on terms satisfactory to Us.

“Works” means the Works to be undertaken by You as specified in the Funded Activity Particulars.

2. INTERPRETATION

2.1. In the Funding Agreement:

- (a) a reference to a clause means a clause in these Funding Agreement General Terms;
- (b) a reference to the Funding Agreement or other instrument includes any variation or replacement of the Funding Agreement or that instrument;
- (c) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of the statute, ordinance, code or law;
- (d) the singular includes the plural and vice versa;
- (e) the word “person” includes a firm, body corporate, unincorporated association or authority;
- (f) a reference to a person includes a reference to the person’s executors, administrators, successors, substitutes (including persons taking by novation) and assigns;
- (g) a reference to an accounting term is to be interpreted in accordance with approved accounting standards under the *Corporations Act 2001* (Cth) and, where not inconsistent with those accounting standards, generally accepted principles and practices in Australia consistently applied by an incorporated body or as between incorporated bodies and over time;
- (h) a reference to anything (including any amount) is a reference to the whole and each part of it, and a reference to a group of persons is a reference to all of them collectively, to any two (2) or more of them jointly and to each of them individually;
- (i) if an act prescribed under the Funding Agreement, to be done by a Party on or by a given day, is done after 5:00pm on that day, the act is deemed to be done on the following day;

- (j) GST, Input Tax Credit, Tax Invoice, and Recipient Created Tax Invoice have the meanings given in the GST Act;
 - (k) the monetary amounts stated in the Funding Agreement are exclusive of GST;
 - (l) reference to “\$” or “dollars” means Australian dollars;
 - (m) headings do not affect the interpretation of the Funding Agreement;
 - (n) a reference to a website by address or location is a reference to a website located at a replacement address or location; and
 - (o) the Special Conditions are terms of the Funding Agreement.
- 2.2. In the event that a government department or agency mentioned in the Funding Agreement:
- (a) ceases to exist; or
 - (b) is reconstituted, renamed or replaced,
- and its powers or functions are transferred to another government department or agency, a reference to the government department or agency will include that other government department or agency.

3. SCOPE OF THE FUNDING AGREEMENT

- 3.1. The Funding Agreement sets out the terms and conditions on which We will provide the Approved Funding to You and on which You must undertake the Funded Activity.
- 3.2. If, in relation to any Approved Funding or Funded Activity, there is any ambiguity or inconsistency between the documents comprising the Funding Agreement, the following order of precedence will apply to resolve the ambiguity or inconsistency:
- (a) any Special Conditions;
 - (b) the Funded Activity Particulars;
 - (c) these Funding Agreement General Terms;
 - (d) the Funding Program Guidelines; and
 - (e) Your completed application for the Approved Funding.

4. TERM OF THE FUNDING AGREEMENT

- 4.1. These Funding Agreement General Terms commence on the date that it is signed by the last of the Parties.
- 4.2. The Funding Agreement commences on the Funded Activity Start Date and, unless terminated earlier, ends on the Funded Activity End Date.

5. FUTURE FUNDING

- 5.1. Despite any other clause in these Funding Agreement General Terms, these Funding Agreement General Terms do not commit Us to provide You with any funding other than the Approved Funding.
- 5.2. You acknowledge that the amount of funding to be paid under the Funding Agreement is capped at the amount of Approved Funding specified in the Funded Activity Particulars, and We are not obliged to contribute any additional amount of funding for the Funded Activity or for any other purpose.
- 5.3. Any expenditure that You incur in excess of the Approved Funding is Your responsibility and You must complete the Funded Activity despite any additional expenditure required.
- 5.4. Provision of the Approved Funding to You does not constitute Our acceptance that You have complied with Your obligations under the Funding Agreement.
- 5.5. You may request additional funding to take into account escalations in costs of carrying out the Funded Activity that are beyond Your control. We may approve or refuse that request in Our entire discretion and may require You to enter into a deed of variation as a condition of any approval.

6. APPROVED FUNDING

- 6.1. Subject to You complying with the terms of the Funding Agreement, We will provide the Approved Funding to You in the Instalments and manner specified in the Funded Activity Particulars.
- 6.2. If the total costs of the Eligible Expenditure are less than the Approved Funding amount, then We may, in our absolute discretion, reduce the Instalments by the amount of the savings.
- 6.3. We may withhold any Instalment of the Approved Funding until You:
 - (a) deliver the Security to Us in accordance with the Funding Agreement;
 - (b) submit any overdue reports or provide any overdue information required under the reporting requirements specified in the Funded Activity Particulars; and
 - (c) perform any of Your obligations which are overdue to be performed,in accordance with the Funding Agreement.
- 6.4. You must use the Approved Funding only for the Funded Activity, unless otherwise approved by Us in writing.
- 6.5. We may, in our entire discretion, reduce the Approved Funding by giving You at least three (3) months' notice if We determine that changes to the Queensland Government

budget, Funding Program Guidelines, or policies of the Queensland Government or Australian Government adversely impact on the continued provision of the Approved Funding to You.

6.6. If We:

- (a) reduce the Approved Funding under clause 6.5, Our notice will also specify the changed scope of the Funded Activity (if any) and the Funding Agreement will be deemed to be varied as far as it applies to the Approved Funding in accordance with the notice; and
- (b) reduce the Approved Funding under clause 6.5, We will consider at our absolute discretion paying You the reasonable costs that You incur as a direct result of the Approved Funding being reduced or withdrawn, subject to You providing Us with written evidence of the costs claimed and Us approving those costs.

6.7. If You notify Us that You propose to sell the Land in accordance with clause 8.7 then we may withhold any Instalment of the Approved Funding in our discretion acting reasonably.

6.8. Our obligation to provide the Approved Funding to You ends on termination of the Funding Agreement.

6.9. If, upon the Activity End Date or earlier termination of the Funding Agreement, there is any amount of unspent Approved Funding, We may by notice to You:

- (a) authorise You to retain the unspent Approved Funding;
- (b) authorise You to expend some or all of the unspent Approved Funding for another purpose; or
- (c) require You to return the unspent Approved Funding to Us.

6.10. Amounts that are required to be paid to Us under clause 6 are debts due to Us.

6.11. We will release the Security:

- (a) after the Funded Activity End Date and on receipt of any monies required to be paid to Us in accordance with the Funding Agreement; or
- (b) on an earlier date, within twenty (20) Business Days after receiving Your request to release the Security and You repaying the amounts of the Approved Funding which We have paid to You under the Funding Agreement.

7. YOUR OBLIGATIONS

7.1. In consideration of Us paying You the Approved Funding, You must:

- (a) undertake the Approved Activity;
- (b) carry out the Works (if any);
- (c) only use the Approved Funding for Eligible Expenditure;
- (d) comply with the Funding Agreement;

- (e) execute and deliver the Security to Us in a registerable form on or before the Security Delivery Date; and
- (f) take all steps necessary to ensure that the Security and all of its associated rights are enforceable by Us.

7.2. In undertaking the Funded Activity, You must:

- (a) not use the Approved Funding for any Ineligible Expenditure;
- (b) comply with all relevant laws and regulations;
- (c) exercise due care and skill;
- (d) act diligently, effectively and in a professional manner;
- (e) grant Us, and Our representatives, access to the Land on Us giving You reasonable notice; and
- (f) immediately notify Us of any potential or actual conflict of interest that You may have,

in the performance of Your obligations under the Funding Agreement.

7.3. In respect of the registration of the Security, You must:

- (a) promptly assist Us to answer any requisition issued by the registrar of titles in respect of the lodgement for registration of the Security; and
- (b) pay to Us, or at Our direction, any requisition fees in respect of those requisitions within 7 days after Our request.

7.4. You must not implement any variations to the Funded Activity without our prior approval. If You wish to make any changes to the Funded Activity or the Funded Activity deliverables, You must seek Our prior approval, which we may grant or refuse in our reasonable discretion. Any approval by Us may be subject to conditions.

7.5. The Parties may vary the Funded Activity Particulars by signing and dating a substitute Funded Activity Particulars.

8. CONSTRUCTION AND MAINTENANCE

Construction

8.1. If the Funded Activity specifies that Works are to be constructed on the Land as part of the Funded Activity, then You must ensure that:

- (a) You obtain any approvals required for the Works from the relevant authority;
- (b) Your expenditure on the Works represents good value for money;
- (c) the Works are completed by appropriately licensed contractors selected through fair and equitable means, free from any conflict of interest;
- (d) the Works are completed in a workman-like manner and conform to the National Construction Code 2022; and

- (e) the Works are constructed generally in accordance with the Minimum Design Requirements (if any).
- 8.2. You must do all things necessary to achieve Practical Completion of the Works by the Practical Completion Date.
- 8.3. You may request an extension of the Practical Completion Date. Your request to Us under this clause must set out the reasons for the delay and the extension request.
- 8.4. We may agree to extend the Practical Completion Date by giving You written notice. We will not unreasonably withhold Our agreement to an extension provided that the extension will not result in the extension of the Practical Completion Date to a date later than 12 months after the original Practical Completion Date provided for in the Funded Activity Particulars.
- 8.5. You must keep Us informed about progress of Works and promptly provide Us with copies of all approvals and certificates in relation to the Works, and any other information about the Works reasonably requested by Us.
- 8.6. Upon achievement of Practical Completion, You must submit a final report to Us, including evidence such as photographs, receipts, certificates and approvals, advising that:
 - (a) the Works have been completed; and
 - (b) the Approved Funding has been spent in accordance with the Funding Agreement.
- 8.7. If You decide to sell the Land during the Funding Period, You must:
 - (a) notify Us immediately and provide Us with information about Your proposed sale of the Land, including about the place, date, and time of settlement; and
 - (b) repay Us the amounts of the Approved Funding which We have paid to You under the Funding Agreement, or a lesser amount if approved by Us in our reasonable discretion and notified to You in writing, upon settlement of the Land. Amounts that are required to be paid to Us under this clause 8.7(b) are debts due to Us.

Maintenance

- 8.8. Following Practical Completion and for the Funding Period, You must keep the Improvements in good order and repair and fit for the delivery of the Funded Activity.
- 8.9. You must, at Your sole cost:
 - (a) maintain the Improvements and all fixtures, fittings in good repair and condition;
 - (b) carry out all maintenance in a tradesman-like manner;
 - (c) keep any lawns and gardens on the Land in a neat and tidy condition and free from any noxious plants or weeds;
 - (d) not allow the accumulation of rubbish or useless items within or about the Land; and
 - (e) keep the Improvements free and clear of rodents, cockroaches and other vermin.

9. REPORTING AND ACKNOWLEDGEMENT OF OUR FUNDING CONTRIBUTION

- 9.1. You must comply with the reporting requirements specified in the Funded Activity Particulars and provide Us with any further information reasonably requested in relation to Your reports.
- 9.2. You must acknowledge Our funding contribution in Your promotional material and in Your annual report (if any) in accordance with the Acknowledgement Guidelines and Funding Program Guidelines.
- 9.3. Prior to publication, You must seek Our approval of any promotional material regarding the Funded Activity.
- 9.4. We may approve or decline to approve Your proposed promotional material in Our reasonable discretion. Our approval may contain conditions, including that You must use Our logo, which We will provide to You for that purpose only.

10. ACCESS TO PREMISES, RECORDS AND FINANCIAL ACCOUNTABILITY

- 10.1. You must, for a period of three (3) years after the Funding Activity End Date, keep complete and adequate records in relation to the Approved Funding and the performance of Your obligations under the Funding Agreement, including:
 - (a) records of receipts and Your expenditure of the Approved Funding; and
 - (b) records of the performance of Your obligations under the Funding Agreement.
- 10.2. You must, if requested by Us, produce any document, bank statement, Tax Invoice, or receipt connected with the Approved Funding within one (1) month after Our request.
- 10.3. You must, no later than one month after the date of Our request, permit and provide persons nominated by Us (Auditors) access to Your employees, premises, books, records, documents, computer systems, equipment and other property to enable the Auditors to inspect and copy:
 - (a) accounts kept under clause 10.1;
 - (b) documents related directly or indirectly to the receipt or expenditure of the Approved Funding or the performance of Your obligations under the Funding Agreement; and
 - (c) discuss with You, any matter pertaining to the Approved Funding or Funded Activities, or Your compliance with Your obligations under the Funding Agreement.

- 10.4. The Auditors may make copies of books, records, documents and other materials, and You must provide the Auditors with the necessary facilities to enable them to do so.

11. INTELLECTUAL PROPERTY RIGHTS

- 11.1. Intellectual Property rights in material that You create in undertaking the Funded Activity ('New Material') will vest in You.
- 11.2. You grant Us a perpetual, irrevocable, royalty-free, world-wide and non-exclusive licence, including a right to sub-licence to use, communicate, reproduce, publish, adapt and modify:
- (a) the New Material; and
 - (b) Your existing material, but only as part of the New Material and any future use or development of the New Material.
- 11.3. We acknowledge that the licence granted by You in clause 11.2 does not extend to any Intellectual Property owned by, or jointly or severally owned with, any third party.
- 11.4. Our logos remain Our Intellectual Property. If We provide You with Our logo in accordance with clause 9.4 then You must only use Our logo in accordance with Our approval.

12. INSURANCE AND INDEMNITY

- 12.1. You must effect and maintain the following insurance policies (with an insurer licensed to operate in Australia) for the Funding Period:
- (a) public liability insurance for a sum of not less than \$20 million for any one incident in respect of accidental death or of accidental bodily injury to persons, or accidental damage to property, arising out of, or in the course of, undertaking the Funded Activity;
 - (b) in respect of the Works on the Land (if any):
 - (i) an insurance policy for an amount not less than the full value of the Works (including, without limitation, the amount of the Approved Funding plus Your contributions to the Works) to protect You against loss or damage resulting from any cause until practical completion of the Works; and
 - (ii) upon practical completion of the Works, building insurance for the full replacement value of the Improvements (including, without limitation, the amount of the Approved Funding plus Your contributions to the Works); and
 - (c) any other insurance notified to You by Us.

- 12.2. You must provide Us with evidence of the currency of Your insurance policies under clause 12.1.
- 12.3. You must notify Us within five (5) Business Days of the occurrence of any event that may give rise to a Claim under Your policies of the insurance and will keep Us fully informed of subsequent action and developments concerning the Claim.
- 12.4. You will apply any insurance monies received under a Claim against the insurer towards either rectification of the damage sustained, or satisfaction of the damages claimed.
- 12.5. If a Claim is made involving damage or loss to the Improvements, You must consult with Us prior to settling any Claim and prior to granting any discharge or taking legal action in regard to any Claim.
- 12.6. If a Claim is made involving a total loss to the Improvements and You do not propose to rectify the damage sustained, then You must repay Us the lesser of:
- (a) an amount equal to the Approved Funding which has been paid to You minus 10% of the Approved Funding for each year (or a pro rata calculation if less than one year) since the Funded Activity Start Date; or
 - (b) the full amount of the insurance payout received by You.
- 12.7. You release, discharge and indemnify Us, to the full extent permitted by law, from and against any Claim that may be brought against or made upon or incurred by Us in connection with:
- (a) carrying out Your obligations under the Funding Agreement;
 - (b) Your wilful, negligent or unlawful acts or omissions; or
 - (c) Your breach of the Funding Agreement,
- except to the extent that any act or omission by Us caused or contributed to the Claim.
- 12.8. You perform Your obligations under the Funding Agreement entirely at Your own risk and We will not be liable for any Claim brought against or made on or incurred by You in connection with the performance of Your obligations.
- 12.9. If You do not comply with Your obligations under this clause 12, You will be in breach of the Funding Agreement.

13. GST

- 13.1. The Approved Funding is expressed as being exclusive of GST. If the supply by You under the Funding Agreement is a Taxable Supply and You are registered for GST, We will pay You the GST on the Taxable Supply at the same time as We pay the Approved Funding.
- 13.2. The recipient of the Taxable Supply must pay the GST Amount to the Supplier by the later of:
- (a) the date an Approved Funding Instalment is payable; and
 - (b) the date the Supplier has given the recipient a Tax Invoice for the Taxable Supply.

- 13.3. If, for any reason, the GST Amount paid by the recipient to the supplier under the Funding Agreement differs from the amount of GST paid or payable by the Supplier to the Commissioner of Taxation, then the supplier must issue an appropriate GST adjustment note and the difference must be paid by or to the supplier as the case may be.
- 13.4. The Parties agree to exchange with each other such information as may be necessary to enable each Party to accurately assess its rights and obligations under this clause.
- 13.5. If a Party has a right to be reimbursed or indemnified for any cost or expense incurred under the Funding Agreement, that right does not include the right to be reimbursed or indemnified for that component of a cost or expense for which the reimbursed or indemnified party can claim an Input Tax Credit.

14. PRIVACY AND CONFIDENTIALITY

- 14.1. If You collect or have access to Personal Information for the purposes of the Funding Agreement, You must:
- (a) comply with Parts 1 and 2 of Chapter 2 and section 41 of the *Information Privacy Act* in relation to the discharge of Your obligations under the Funding Agreement as if You were Us;
 - (b) not use Personal Information other than for the purposes of the Funding Agreement, unless required or authorised by law;
 - (c) not disclose Personal Information without Our prior written consent, unless required or authorised by law;
 - (d) not transfer Personal Information outside Australia without Our prior written consent;
 - (e) ensure that access to Personal Information is restricted to those of Your employees, volunteers and officers who require access to it in order to perform their duties;
 - (f) ensure that Your employees, volunteers and officers do not access, use or disclose Personal Information other than in performance of their duties;
 - (g) ensure that Your contractors, who have access to the Personal Information, comply with obligations the same as those imposed on You under this clause 14;
 - (h) comply with such other privacy and security measures as We reasonably advise in writing from time to time;
 - (i) immediately notify Us upon becoming aware of:
 - (i) any breach of this clause 14, or any unauthorised access, use, modification, disclosure of Personal Information;
 - (ii) other misuse of any Personal Information collected or accessed in connection with the Funding Agreement;
 - (iii) any loss of Personal Information collected or accessed in connection with the Funding Agreement in circumstances where unauthorised access, use, modification, disclosure or other misuse of the Personal Information by a third party is likely to occur; or

- (iv) anything that would constitute an eligible data breach (as defined in the *Information Privacy Act*) relating to the Personal Information collected or accessed in connection with this Agreement;
 - (j) comply with Our reasonable directions in relation to any privacy breach referred to in clause (i); and
 - (k) fully cooperate with Us to enable Us to take any action required under chapter 3A (Mandatory notification of data breaches) of the *Information Privacy Act*.
- 14.2. On Our request, You must obtain from Your employees, volunteers, officers, and contractors engaged for the purposes of the Funding Agreement, who collect or have access to Personal Information, an executed deed of privacy in a form acceptable to Us.
- 14.3. You must immediately notify Us on becoming aware of any breach of clause 14.
- 14.4. You must notify Us immediately in the event that You become aware that disclosure of Personal Information, in relation to any child subject to the *Child Protection Act 1999* or the *Youth Justice Act 1992*, is made or may be required by law.
- 14.5. Subject to clause 14.6, a Recipient of Confidential Information must not disclose the Discloser's Confidential Information to a third party or use the Confidential Information other than for the purpose of performing the Funding Agreement.
- 14.6. A Recipient of Confidential Information may disclose the Discloser's Confidential Information:
 - (a) with the Discloser's consent;
 - (b) to a professional adviser or representative if that person is obliged to keep the Confidential Information confidential;
 - (c) to comply with the law, or a requirement of a statutory body;
 - (d) to the extent necessary to enforce its rights or defend a Claim under the Funding Agreement; and
 - (e) if We are the Recipient:
 - (i) to the responsible Minister administering Us and the Minister's personal and departmental advisers;
 - (ii) in response to a request by the Parliament or a Committee of the Parliament of the State of Queensland; or
 - (iii) where disclosure is required to be made in accordance with established governmental policies, procedures or for public accountability purposes.
- 14.7. If You become aware of a suspected or actual breach of clause 14.5, You must immediately notify Us and take reasonable steps to prevent or stop the suspected or actual breach.
- 14.8. The Parties acknowledge and accept that:
 - (a) damages may be an inadequate remedy for a breach of clause 14.5;

- (b) in the event of a breach or threatened breach of clause 14.5 by a Recipient, the Discloser may be entitled to apply for an injunction restraining the Recipient from continuing the breach or committing any further breach of clause 14.5; and
- (c) the obtaining of an injunction is without prejudice to the rights of the Discloser to seek damages for loss suffered as a result of a breach of the provisions of clause 14.5 by the Recipient.

15. BREACH AND TERMINATION

15.1. We may terminate the Funding Agreement by notice with immediate effect, if:

- (a) You cease to be eligible for the Approved Funding;
- (b) You become insolvent;
- (c) any steps or proceedings are commenced (and not withdrawn or dismissed within five (5) Business Days), or a court order made in relation to Your winding up, voluntarily or involuntarily; or
- (d) We consider, in our reasonable discretion, that an unacceptable conflict of interest has arisen in relation to You, Your use of the Approved Funding, or Your performance of the Funded Activity which cannot be resolved to our reasonable satisfaction.

15.2. You will be in breach of the Funding Agreement if, during the Funding Period, You:

- (a) expend the Approved Funding on Ineligible Expenditure;
- (b) fail to perform any of Your obligations under the Funding Agreement.

15.3. If You breach the Funding Agreement, We may, at Our entire discretion, remedy the breach, in which case You must pay all of Our reasonable costs and outlays of and incidental to remedying the breach. Amounts payable by You to Us under this clause 15.3 are debts due and owing by You to Us.

15.4. If You are in breach of the Funding Agreement, then We may give You a notice to remedy the breach within 20 Business Days.

15.5. If You fail to remedy the breach within 20 Business Days of receiving Our notice under clause 15.3, then We may immediately do one or more of the following things:

- (a) suspend payment of any Instalment;
- (b) require You to repay Us:
 - (i) those portions of the Approved Funding that You have expended on Ineligible Expenditure;
 - (ii) any unexpended amounts of the Approved Funding which We have paid to You;
 - (iii) any other debts owed to Us under the Funding Agreement; and
 - (iv) an amount for Our legal expenses;

- (c) exercise Our rights under the Security;
 - (d) refuse to release the Security after the expiry of the Funding Period until We are paid the amounts owing to Us; and
 - (e) terminate the Funding Agreement.
- 15.6. If You are in breach under clause 15.2 and We require you to pay Us any amounts of the Approved Funding under clause 15.5, then You must pay Us those amounts on demand and those amounts are debts due to Us.
- 15.7. We may terminate the Funding Agreement, without issuing a default notice but by giving You at least 3 months' notice, if We determine that changes to the Queensland Government budget, Funding Program Guidelines, or policies of the Queensland Government or Australian Government adversely impact on the continued provision of the Approved Funding to You.
- 15.8. If, We terminate the Funding Agreement under clause 15.7, We may consider in Our absolute discretion to pay You reasonable costs that You incur as a direct result of Approved Funding being reduced or withdrawn, subject to You providing Us with written evidence of the costs claimed and Us approving those costs.
- 15.9. Our rights under clause 15 are in addition to any other rights or remedies available to Us.

16. CONSEQUENCES OF TERMINATION

- 16.1. In the event of termination of the Funding Agreement as it applies to Approved Funding:
- (a) We will have no further obligation to pay any Instalments of Approved Funds to You as at the date of termination of the Funding Agreement;
 - (b) You must take all action necessary to minimise further expenditure of all Approved Funding;
 - (c) We may in the notice of termination or a further notice, require You to repay unspent Approved Funding, or such part of the unspent Approved Funding as is stated in the notice, within the time specified in the notice;
 - (d) any Approved Funding which has not been expended by You in accordance with the Funding Agreement as at the date of termination will be applied as follows:
 - (i) in payment of any Eligible Expenditure items, including any debts or liabilities incurred by You in relation to the Funded Activity prior to the date of termination of the Funding Agreement; and
 - (ii) We may recover any Approved Funds which have not been expended by You as at the date of termination.
 - (e) We may offset the spent Approved Funding or such part of the spent Approved Funding as is stated in the notice of termination or a further notice, against any other Approved Funding You may be entitled to receive under another grant of funding, including current and future grants of funding.

17. DISPUTE RESOLUTION PROCESS

17.1. Both Parties agree that any dispute arising during the course of the Funding Agreement will be dealt with as follows:

- (a) the Party claiming that there is a dispute will serve notice to the other Party setting out the nature of the dispute;
- (b) the Parties will try to resolve the dispute by direct negotiation;
- (c) the Parties have ten (10) Business Days from the service of the notice (or such extended time as the Parties may agree in writing before the expiration of the ten (10) Business Days) to reach a resolution or to agree that the dispute will be submitted to mediation or some other form of alternative dispute resolution procedure with the costs and expenses of any mediation or alternative dispute resolution procedure being borne equally between the parties; and
- (d) if:
 - (i) there is no resolution or agreement; or
 - (ii) there is a submission to mediation or some other form of alternative dispute resolution procedure, but there is no resolution within ten (10) Business Days of the submission, or such extended time as the parties may agree in writing before the expiration of the ten (10) Business Days,

then any Party may commence legal proceedings.

17.2. Each Party shall, as far as reasonably possible, continue to perform its obligations under the Funding Agreement notwithstanding the existence of any dispute or any proceeding under this clause 17.

18. INTERVENING EVENT

18.1. You must notify Us if You are unable to carry out wholly or in part, any of Your obligations to perform Your obligations under the Funding Agreement due to natural disasters, strikes, lockouts, or other industrial disturbances, acts of terror, unavoidable accident, fire, flood, or explosion (an Intervening Event).

18.2. Your notice to Us under clause 18.1 must provide the extent to which You expect to be unable to perform or will be delayed in performing Your obligations under the Funding Agreement.

18.3. You must take all reasonable steps to reduce the effect of the Intervening Event. We acknowledge that Your obligations under the Funding Agreement may be suspended to the extent that they are affected by the Intervening Event.

18.4. We may suspend the payment of any Instalment which is due to be paid to You during an Intervening Event in our entire discretion.

18.5. Once the Intervening Event has ended, You must as soon as possible notify us that the Intervening Event has ended and recommence the performance of Your obligations, and

where possible, carry out all acts which You would have been liable to carry out had the Intervening Event not occurred.

19. PUBLICATION OF INFORMATION

19.1. We may publish, or require You to publish, any or all of the following details:

- (a) Your name and address, including Your head office, and other business premises;
- (b) a description of the Funded Activity under the Funding Agreement;
- (c) the Funded Activity Start Date and Funded Activity End Date;
- (d) the amount of the Approved Funding; and
- (e) the funding process or procurement method used to award the Approved Funding to You.

20. NOTICES

20.1. Any notice to be given under the Funding Agreement must be in writing and addressed and forwarded to the relevant address and contact officer as specified in Schedule A or as notified by a Party to the other from time to time.

20.2. A notice may be delivered by hand, sent by post or electronic mail to the address of the Party to which it is sent and will be deemed to be received:

- (a) if delivered by hand, on the date of delivery;
- (b) if sent by post within Australia, five Business Days after the date on which it was sent; and
- (c) if transmitted by electronic mail, upon receipt by the sender of an acknowledgement that the notice has been properly transmitted to the recipient.

21. GENERAL

21.1. The Funding Agreement will be construed according to the law of Queensland and the Parties agree to submit to the jurisdiction of the courts of Queensland.

21.2. The failure by a Party to enforce any clause of the Funding Agreement, or any forbearance or indulgence granted by that Party shall not be construed as a waiver of its rights under the Funding Agreement.

21.3. A right under the Funding Agreement will only be waived where there is a written agreement of the Parties.

21.4. Any approval or comment by Us on something submitted under the Funding Agreement does not constitute a waiver, and does not relieve You from any requirements to obtain approvals under relevant laws.

21.5. A clause of the Funding Agreement may only be varied by a written agreement signed by both Parties.

- 21.6. Each Party shall pay its own costs of and incidental to the negotiation, preparation and signing of the Funding Agreement.
- 21.7. You will pay any stamp duty payable on the Funding Agreement.
- 21.8. The Funding Agreement may be signed in any number of counterparts with the same effect as if the signatures to each counterpart were on the same instrument. The Funding Agreement may be electronically signed and delivered with the same force and effect as if it were manually signed and delivered.
- 21.9. Time will be of the essence in the Funding Agreement.
- 21.10. Each Party must do all things reasonably required to give effect to the Funding Agreement.
- 21.11. The Funding Agreement constitutes the entire agreement between the Parties. Any prior arrangements, agreements, warranties, representations or undertakings in respect of the Approved Funding are superseded.
- 21.12. Termination or expiry of the Funding Agreement will not affect any Claim or action any party may have against another by reason of any antecedent breach of the Funding Agreement and will not relieve either party of any obligation under the Funding Agreement which is expressed to continue after termination.
- 21.13. The following clauses will survive termination or expiry of the Funding Agreement:
- (a) clauses 1 and 2 (Definitions and Interpretation)
 - (b) clause 3 (Scope of the Funding Agreement)
 - (c) clause 5 (Future Funding)
 - (d) clause 8.7(b) (sale of the Land during the Funding Period)
 - (e) clause 9 (Reporting and Acknowledgement of Our funding contribution)
 - (f) clause 10 (Access to Premises, Records and Financial Accountability)
 - (g) clause 11 (Intellectual Property Rights)
 - (h) clause 12.7 (Indemnity and Release)
 - (i) clause 13 (GST)
 - (j) clause 14 (Privacy and Confidentiality)
 - (k) clause 15 (Breach and Termination)
 - (l) clause 16 (Consequences of Termination)
 - (m) clause 19 (Publication of information)
 - (n) clause 20 (Notices)
 - (o) clause 21 (General).

Schedule A

Item 1	Department	Name	The State of Queensland acting through the Department of Women, Aboriginal and Torres Strait Islander Partnerships and Multiculturalism
		Contact person	Julie McDougall Executive Director, Multicultural Affairs
		Phone	(07) 3097 7700
		Email	Funding@mag.qld.gov.au
		Address	Level 20, 111 George Street, Brisbane QLD 4000
		Postal Address	Locked Bag 3405, Brisbane QLD 4001
Item 2	Organisation	Name	<Company/Department>
		ACN/ABN	<ACN> <ABN>
		Contact person	<Phone>
		Phone	<Email>
		Email	<Email>
		Address	<STREET ADDRESS> <STREET SUBURB> QLD <POSTCODE>
		Postal Address	<POSTAL ADDRESS> <STREET SUBURB> QLD <POSTCODE>

EXECUTED as an Agreement by the parties on the dates appearing below

EXECUTED on behalf of the **STATE OF QUEENSLAND** (acting through the Department of Women, Aboriginal and Torres Strait Islander Partnerships and Multiculturalism) by

.....
(full name)

.....
(designation)

a duly authorised person, in the presence of:

.....
(print name of witness)

.....
(signature of witness)

.....
(signature)

..... / /
(date)

EXECUTED by **<Organisation Name> <ACN> <ABN>** in accordance with s 127 of the Corporations Act 2001 (Cth) by

.....
(Director signature)

.....
(Director name)

.....
(Director/Secretary signature)

.....
(Director/Secretary name)

..... / /
(date)

EXECUTED on behalf of the **<Organisation Name> <ACN> <ABN>** in accordance with s 28 of the Associations of Incorporation Act 1981 (Qld)

.....
(Member of the Management Committee, signature)

.....
(Member of the Management Committee, name)

.....
(Secretary/Member of the Management Committee, signature)

.....
(Secretary/Member of the Management Committee, name)

..... / /
(date)

.....
(signature of witness)

[illegible]

..... / /
(date)