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- 4.2. A notice given by a Party under this Agreement must be in writing and addressed to the other Party's representative as set out in the Grant Details or as most recently updated by notice given in accordance with this clause.
- 4.3. A notice is deemed to be effected:
  - (a) if delivered by hand - upon delivery to the relevant address;
  - (b) if sent by post - upon delivery to the relevant address; or
  - (c) if transmitted electronically - upon actual receipt by the addressee.
- 4.4. A notice received after 5.00 pm, or on a day that is a Saturday, Sunday or public holiday, in the place of receipt, is deemed to be effected on the next day that is not a Saturday, Sunday or public holiday in that place.
- 4.5. The Commonwealth may, by notice, advise the Grantee of changes to the Agreement that are minor or of an administrative nature, provided that any such changes do not increase the Grantee's obligations under this Agreement. Such changes, while legally binding, are not variations for the purpose of clause 8.

## 5. **Relationship between the Parties**

A Party is not by virtue of this Agreement the employee, agent or partner of the other Party and is not authorised to bind or represent the other Party.

## 6. **Subcontracting**

- 6.1. The Grantee is responsible for the performance of its obligations under this Agreement, including in relation to any tasks undertaken by subcontractors.
- 6.2. The Grantee agrees to make available to the Commonwealth the details of any of its subcontractors engaged to perform any tasks in relation to this Agreement upon request.

## 7. **Conflict of interest**

- 7.1. Other than those which have already been disclosed to the Commonwealth, the Grantee warrants that, to the best of its knowledge, at the date of this Agreement neither it nor its officers have any actual, perceived or potential conflicts of interest in relation to the Activity.
- 7.2. If during the term of the Agreement, any actual, perceived or potential conflict arises or there is any material change to a previously disclosed conflict of interest, the Grantee agrees to:
  - (a) notify the Commonwealth promptly and make full disclosure of all relevant information relating to the conflict; and
  - (b) take any steps the Commonwealth reasonably requires to resolve or otherwise deal with that conflict.

## 8. **Variation, assignment and waiver**

- 8.1. This Agreement may be varied in writing only, signed by both Parties.

- 8.2. The Grantee cannot assign its obligations, and agrees not to assign its rights, under this Agreement without the Commonwealth's prior approval.
- 8.3. The Grantee agrees not to enter into negotiations with any other person for the purposes of entering into an arrangement that will require novation of, or involve any assignment of rights under, this Agreement without first consulting the Commonwealth.
- 8.4. A waiver by a Party of any of its rights under this Agreement is only effective if it is in a signed written notice to the other Party and then only to the extent specified in that notice.

## 9. **Taxes, duties and government charges**

- 9.1. The parties have entered into this Grant Agreement on the understanding that the Commonwealth and the Grantee are both government related entities, and that the amount of the Grant and anything else the Grantee receives from another entity in relation to any supply under this Agreement does not exceed the Grantee's cost of making that supply. On this basis, and in accordance with GSTR 2012/2 the parties rely on s.9-17 of the GST Act for no GST being imposed in connection with a supply made under this Agreement. Consequently, the actual and projected expenditure the Grantee reports to the Commonwealth must exclude the GST component on goods and services, and the payments the Commonwealth makes under this Agreement will not include GST.
- 9.2. The Grantee agrees to pay all taxes, duties and government charges imposed or levied in Australia or overseas in connection with the performance of this Agreement, except as provided by this Agreement.
- 9.3. If Goods and Services Tax (GST) is payable by a supplier on any supply made under this Agreement, the recipient of the supply will pay to the supplier an amount equal to the GST payable on the supply, in addition to and at the same time that the consideration for the supply is to be provided under this Agreement.
- 9.4. If at the commencement of the Agreement the Grantee is not registered for GST and during the term of the Agreement the Grantee becomes, or is required to become, registered for GST, the Grantee agrees to notify the Commonwealth in writing within 7 days of becoming registered for GST.

## 10. **Spending the Grant**

- 10.1. The Grantee agrees to spend the Grant for the purpose of performing the Activity and otherwise in accordance with this Agreement.
- 10.2. Within one month after the Activity Completion Date, the Grantee agrees to provide a statement signed by the Grantee in a form specified by the Commonwealth verifying the Grant was spent in accordance with this Agreement.

## 11. **Repayment**

- 11.1. If any amount of the Grant:
  - (a) has been spent other than in accordance with this Agreement; or
  - (b) is additional to the requirements of the Activity; then the Commonwealth may by written notice:

- (c) require the Grantee to repay that amount to the Commonwealth;
- (d) require the Grantee to deal with that amount as directed by the Commonwealth;

or

- (e) deduct the amount from subsequent payments of the Grant or amounts payable under another agreement between the Grantee and the Commonwealth.

- 11.2. If the Commonwealth issues a notice under this Agreement requiring the Grantee to repay a Grant amount:
- (a) the Grantee must do so within the time period specified in the notice;
  - (b) the Grantee must pay interest on any part of the amount that is outstanding at the end of the time period specified in the notice until the outstanding amount is repaid in full; and
  - (c) the Commonwealth may recover the amount and any interest under this Agreement as a debt due to the Commonwealth without further proof of the debt being required.

## 12. Record keeping

- 12.1. The Grantee agrees to keep financial accounts and other records that:
- (a) detail and document the conduct and management of the Activity;
  - (b) identify the receipt and expenditure of the Grant separately within the Grantee's accounts and records so that at all times the Grant is identifiable; and
  - (c) enable all receipts and payments related to the Activity to be identified and reported.
- 12.2. The Grantee agrees to keep the records for five years after the Activity Completion Date or such other time specified in the Grant Details and provide copies of the records to the Commonwealth upon request.

## 13. Reporting and Liaison

- 13.1. The Grantee agrees to provide the Reporting Material specified in the Grant Details to the Commonwealth.
- 13.2. In addition to the obligations in clause 13.1, the Grantee agrees to:
- (a) liaise with and provide assistance and information to the Commonwealth as reasonably required by the Commonwealth; and
  - (b) comply with the Commonwealth's reasonable requests, directions and monitoring requirements,  
in relation to the Activity.
- 13.3. If the Commonwealth acting reasonably has concerns regarding the performance of the Activity or the management of the Grant, the Commonwealth may by written notice require the Grantee to provide one or more additional reports, containing the information and by the date(s), specified in the notice.
- 13.4. The Grantee acknowledges that the giving of false or misleading information to the Commonwealth is a serious offence under the Criminal Code Act 1995 (Cth).

## 14. Privacy

- 14.1. When dealing with Personal Information in carrying out the Activity, the Grantee agrees:

- (a) to comply with the requirements of the Privacy Act 1988 (Cth); and
- (b) not to do anything which, if done by the Commonwealth, would be a breach of an Australian Privacy Principle.

**15. Confidentiality**

- 15.1. The Parties agree not to disclose each other's confidential information without the other Party's prior written consent unless required or authorised by law or Parliament to disclose.
- 15.2. The Commonwealth may disclose the Grantee's confidential information where;
  - (a) the Commonwealth is providing information about the Activity or Grant in accordance with Commonwealth accountability and reporting requirements;
  - (b) the Commonwealth is disclosing the information to a Minister of the Australian Government, a House or Committee of the Commonwealth Parliament; or
  - (c) the Commonwealth is disclosing the information to its personnel or another Commonwealth agency where this serves the Commonwealth's legitimate interests.

**16. Insurance**

- 16.1. The Grantee agrees to maintain adequate insurance for as long as any obligations remain in connection with this Agreement and provide proof of insurance to the Commonwealth upon request.

**17. Intellectual property**

- 17.1. Subject to clause 17.2, the Grantee owns the Intellectual Property Rights in Activity Material and Reporting Material.
- 17.2. This Agreement does not affect the ownership of Intellectual Property Rights in Existing Material.
- 17.3. The Grantee provides the Commonwealth a permanent, non-exclusive, irrevocable, royalty-free licence to use, modify, communicate, reproduce, publish, adapt and sub-license the Reporting Material for Commonwealth Purposes.
- 17.4. The licence in clause 17.3 does not apply to Activity Material.

**18. Dispute resolution**

- 18.1. The Parties agree not to initiate legal proceedings in relation to a dispute arising under this Agreement unless they have first tried and failed to resolve the dispute by negotiation.
- 18.2. Unless clause 18.3 applies, the Parties agree to continue to perform their respective obligations under this Agreement when a dispute exists.
- 18.3. The Parties may agree to suspend performance of the Agreement pending resolution of the dispute.
- 18.4. Failing settlement by negotiation in accordance with clause 18.1, the Parties may agree to refer the dispute to an independent third person with power to intervene and direct some form of resolution, in which case the Parties will be bound by that resolution. If the Parties do not agree to refer the dispute to an independent third person, either Party may initiate legal proceedings.

- 18.5. Each Party will bear their own costs in complying with this clause 18, and the Parties will share equally the cost of any third person engaged under clause 18.4.
- 18.6. The procedure for dispute resolution under this clause does not apply to any action relating to termination, cancellation or urgent interlocutory relief.

**19. Reduction, Suspension and Termination**

19.1. Reduction in scope of agreement for fault

19.1.1. If the Grantee does not comply with an obligation under this Agreement and the Commonwealth believes that the non-compliance is incapable of remedy, or if the Grantee has failed to comply with a notice to remedy, the Commonwealth may by written notice reduce the scope of the Agreement.

19.1.2. The Grantee agrees, on receipt of the notice of reduction, to:

- (a) stop or reduce the performance of the Grantee's obligations as specified in the notice;
- (b) take all available steps to minimise loss resulting from the reduction;
- (c) continue performing any part of the Activity or the Agreement not affected by the notice if requested to do so by the Commonwealth; and
- (d) report on, and return any part of, the Grant to the Commonwealth, or otherwise deal with the Grant, as directed by the Commonwealth.

19.1.3. In the event of reduction under clause 19.1.1, the amount of the Grant will be reduced in proportion to the reduction in the scope of the Agreement.

19.2. Suspension

19.2.1. If:

- (a) the Grantee does not comply with an obligation under this Agreement and the Commonwealth believes that the non-compliance is capable of remedy;
- (b) the Commonwealth reasonably believes that the Grantee is unlikely to be able to perform the Activity or manage the Grant in accordance with this Agreement; or
- (c) the Commonwealth reasonably believes that there is a serious concern relating to the Grantee or this Agreement that requires investigation;

the Commonwealth may by written notice:

- (d) immediately suspend the Grantee from further performance of the Activity (including expenditure of the Grant); and/or
- (e) require that the non-compliance or inability be remedied, or the investigation be completed, within the time specified in the notice.

19.2.2. If the Grantee:

- (a) remedies the non-compliance or inability specified in the notice to the Commonwealth's reasonable satisfaction, or the Commonwealth reasonably concludes that the concern is unsubstantiated, the Commonwealth may direct the Grantee to recommence performing the Activity; or
- (b) fails to remedy the non-compliance or inability within the time specified, or the Commonwealth reasonably concludes that the concern is likely to be substantiated, the Commonwealth may reduce the scope of the Agreement in accordance with clause

19.1 or terminate the Agreement immediately by giving a second notice in accordance with clause 19.3.

19.3. Termination for fault

19.3.1. The Commonwealth may terminate this Agreement by notice where the Grantee has:

- (a) failed to comply with an obligation under this Agreement and the Commonwealth believes that the non-compliance is incapable of remedy or where clause 19.2.2.b applies; or
- (b) provided false or misleading statements in relation to the Grant; or
- (c) become bankrupt or insolvent, entered into a scheme of arrangement with creditors, or come under any form of external administration.

19.3.2. The Grantee agrees, on receipt of the notice of termination, to:

- (a) stop the performance of the Grantee's obligations;
- (b) take all available steps to minimise loss resulting from the termination; and
- (c) report on, and return any part of, the Grant to the Commonwealth, or otherwise deal with the Grant, as directed by the Commonwealth.

20. **Cancellation or reduction for convenience**

20.1. The Commonwealth may cancel or reduce the scope of this Agreement by notice, due to:

- (a) a change in government policy; or
- (b) a Change in the Control of the Grantee which the Commonwealth reasonably believes will negatively affect the Grantee's ability to comply with this Agreement.

20.2. On receipt of a notice of reduction or cancellation under this clause, the Grantee agrees to:

- (a) stop or reduce the performance of the Grantee's obligations as specified in the notice;
- (b) take all available steps to minimise loss resulting from that reduction or cancellation;
- (c) continue performing any part of the Activity or the Agreement not affected by the notice if requested to do so by the Commonwealth; and
- (d) report on, and return any part of, the Grant to the Commonwealth, or otherwise deal with the Grant, as directed by the Commonwealth.

20.3. In the event of reduction or cancellation under this clause, the Commonwealth will be liable only to:

- (a) pay any part of the Grant due and owing to the Grantee under this Agreement at the date of the notice; and
- (b) reimburse any reasonable and substantiated expenses the Grantee unavoidably incurs that relate directly and entirely to the reduction in scope or cancellation of the Agreement.

20.4. In the event of reduction, the amount of the Grant will be reduced in proportion to the reduction in the scope of the Agreement.

- 20.5. The Commonwealth's liability to pay any amount under this clause is:
- (a) subject to the Grantee's compliance with this Agreement; and
  - (b) limited to an amount that when added to all other amounts already paid under the Agreement will not exceed the total amount of the Grant.
- 20.6. The Grantee will not be entitled to compensation for loss of prospective profits or benefits that would have been conferred on the Grantee but for the cancellation or reduction in scope of the Agreement under clause 20.1.
- 20.7. The Commonwealth will act reasonably in exercising its rights under this clause.

## 21. Survival

The following clauses survive termination, cancellation or expiry of this Agreement:

- clause 10 (Spending the Grant);
- clause 11 (Repayment);
- clause 12 (Record keeping);
- clause 13 (Reporting);
- clause 14 (Privacy);
- clause 15 (Confidentiality);
- clause 16 (Insurance);
- clause 17 (Intellectual property);
- clause 19 (Reduction, Suspension and Termination);
- clause 21 (Survival);
- clause 22 Definitions; and
- Any applicable provisions included from the clause bank; and
- Any other clause which expressly or by implication from its nature is meant to survive.

## 22. Definitions

In this Agreement, unless the contrary appears:

- **Activity** means the activity described in the Grant Details and includes the provisions of the Reporting Material.
- **Activity Completion Date** means the date or event specified in the Grant Details.
- **Activity Material** means any Material, other than Reporting Material, created or developed by the Grantee as a result of the Activity and includes any Existing Material that is incorporated in or supplied with the Activity Material.
- **Agreement** means the Grant Details, Supplementary Terms (if any), the Commonwealth Standard Grant Conditions and any other document referenced or incorporated in the Grant Details.
- **Agreement End Date** means the date or event specified in the Grant Details.
- **Australian Privacy Principle** has the same meaning as in the *Privacy Act 1988*.
- **Change in the Control** means any change in any person(s) who directly exercise effective control over the Grantee.

- **Commonwealth** means the Commonwealth of Australia as represented by the Commonwealth entity specified in the Agreement and includes, where relevant, its officers, employees, contractors and agents.
- **Commonwealth Purposes** includes the following:
  - a. the Commonwealth verifying and assessing grant proposals, including a grant application;
  - b. the Commonwealth administering, monitoring, reporting on, auditing, publicising and evaluating a grant program or exercising its rights under this Agreement;
  - c. the Commonwealth preparing, managing, reporting on, auditing and evaluating agreements, including this Agreement; and
  - d. the Commonwealth developing and publishing policies, programs, guidelines and reports, including Commonwealth annual reports;
 but in all cases:
  - e. excludes the commercialisation (being for-profit use) of the Material by the Commonwealth.
- **Commonwealth Standard Grant Conditions** means this document.
- **Existing Material** means Material developed independently of this Agreement that is incorporated in or supplied as part of Reporting Material or Activity Material.
- **Grant** means the money, or any part of it, payable by the Commonwealth to the Grantee for the Activity as specified in the Grant Details.
- **Grantee** means the legal entity other than the Commonwealth specified in the Agreement and includes, where relevant, its officers, employees, contractors and agents.
- **Grant Details** means the document titled Grant Details that forms part of this Agreement.
- **Intellectual Property Rights** means all copyright, patents, registered and unregistered trademarks (including service marks), registered designs, and other rights resulting from intellectual activity (other than moral rights under the *Copyright Act 1968*).
- **Material** includes documents, equipment, software (including source code and object code versions), goods, information and data stored by any means including all copies and extracts of them.
- **Party** means the Grantee or the Commonwealth.
- **Personal Information** has the same meaning as in the *Privacy Act 1988*.
- **Records** includes documents, information and data stored by any means and all copies and extracts of the same.
- **Reporting Material** means all Material which the Grantee is required to provide to the Commonwealth for reporting purposes as specified in the Grant Details and includes any Existing Material that is incorporated in or supplied with the Reporting Material.

## Schedule 2: Work Schedule

### Nominating Projects through the Work Schedule

1. The Department will provide a form that the Grantee must complete and submit to the Department at [IIP@infrastructure.gov.au](mailto:IIP@infrastructure.gov.au).
2. The following information must be provided for each project an Eligible Funding Recipient proposes to spend LRCI Program funds on:
  - a. the project type (small <\$10,000 or normal >\$10,000);
  - b. the work category;
  - c. the work location or address, and primary road if relevant;
  - d. data for use in a Geographical Information System in the manner and form required by the Department;
  - e. description of the proposed project and work proposed;
  - f. the problem the proposed project is seeking to address;
  - g. the estimated construction start and completion date (physical not financial).
  - h. the estimated total cost of the project, excluding GST;
  - i. whether the project is being fully funded by the LRCI Program;
  - j. the estimated council or other funding co-contributions (if applicable);
  - k. how much LRCI Program funding is required;
  - l. if the project land or asset is state/territory/crown or Commonwealth owned, please provide evidence of authority to undertake the project from the land or asset owner;
  - m. the benefits from each project, including:
    - o primary project goal;
    - o estimated number of full time equivalent jobs supported over the construction period; and
    - o any specific outputs/project activities being undertaken, for example:
      - i. repair of 400 metres of fencing;
      - ii. installation of ten waste and recycling bins to a Council's local park;
      - iii. building of a swing set for children's play; or
      - iv. painting of a community hall.
  - n. conflict of interest declarations in accordance with requirements.
3. Once an approved project has been completed, Funding Recipients will need to detail whether the project goal has been achieved, and if it not, what outcome has been achieved and why.
4. Funding Recipients may group a series of individual projects valued at less than \$10,000 that are of the same or similar nature as one 'group project'. In these circumstances, the Funding Recipient must provide the same information as individual projects with the following modifications:
  - o. a general description of each group project;
  - p. the location and cost (excluding GST) of each small funded project within the group project;
  - q. the estimated total cost of the group project, excluding GST as a whole;
  - r. how much LRCI Program funding is required for the group project as a whole;
  - s. the estimated start date of the first of the small funded projects in the group project to begin and the scheduled completion date of the small funded project in

- the group expected to be completed last;
- t. specifies the overall expected outcome from the group project;
- u. the collective benefits from each group project, including:
  - o primary project goal;
  - o estimated amount of full time equivalent jobs supported over the construction period; and
  - o each specific outputs/project activity being undertaken (e.g. Xkm of road resealed/Repair of 400m of fencing/Add ten waste and recycling bins to Council's local park/ Building of swing set for children's play/Painting of a community hall).