

The State Of Western Australia Acting Through  
The Department of Local Government and Communities

**And**

XYZ Inc

For

Core Funding

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GRANT AGREEMENT

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This Grant Agreement is made on \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_  
Between:

**The State Of Western Australia Acting Through the Department of Local Government and Communities ("Grantor")**

and

**XYZ Inc ("Organisation")**

## **RECITALS**

The Organisation has applied to the Grantor for financial assistance to undertake the Approved Purpose and the Grantor has agreed to provide a grant subject to the terms and conditions of this Agreement.

## **THE PARTIES AGREE as follows:**

### **1. DEFINITIONS AND INTERPRETATION**

In this Agreement, unless the context otherwise requires:

**Agreement** means this Grant Agreement, including its recitals and any schedules or annexures (if any).

**Acquittal** occurs when the Grantor has advised the Organisation that the reports and financial information provided by the Organisation in accordance with clause 3.6 are satisfactory.

**Approved Purpose** means the purpose or purposes set out in item 1 of Schedule 1.

**Auditor** means an accountant who is a member of the Institute of Chartered Accountants in Australia, the Australian Society of Certified Practising Accountants or the National Institute of Accountants and who is independent from the Organisation.

**Auditor General** means the Auditor General for the State of Western Australia.

**Business Day** means a day other than a Saturday, Sunday or public holiday in Western Australia.

**Grant Funds** means the amount or amounts specified in item 8 of Schedule 1.

**Party** means each of the Grantor or the Organisation as the context requires and **Parties** means both of them.

**Project** means the initiative or activities to be undertaken with the Grant Fund specified in item 2 of Schedule 1.

## **2. PAYMENT OF GRANT FUNDS**

Subject to the terms and conditions of this Agreement, the Grantor will pay to the Organisation the Grant Funds in accordance with the payment schedule specified in item 9 of Schedule 1.

## **3 OBLIGATIONS OF ORGANISATION**

### **3.1 Use of Grant Payment**

The Organisation will use the Grant Funds solely for the Approved Purpose.

### **3.2 No Changes**

The Organisation will not make any changes to the Approved Purpose without the prior written consent of the Grantor.

### **3.3 No Endorsement**

The Organisation agrees that nothing in this Agreement constitutes an endorsement by the Grantor of any goods or services provided by the Organisation.

### **3.4 Acknowledgement of Grantor**

The Organisation will acknowledge the Grantor in the manner set out in item 7 of Schedule 1.

### **3.5 Request for Information**

- (a) The Organisation is to provide the Grantor with any documents or information relating to this Agreement or the Project within ten (10) business days of receiving such a request from the Grantor.

### **3.6 Accounts and Reporting**

- (a) The Organisation is to provide the progress reports, evaluation reports and financial statements specified in Schedule 2.
- (b) The Organisation is to keep proper financial records in accordance with generally accepted accounting principles and practices.

### **3.7 Special Conditions of Grant**

The Organisation agrees to comply with the special conditions (if any) specified in item 5 of Schedule 1.

### **3.8 General Undertaking of Organisation**

The Organisation must:

- (a) at all times duly perform and observe its obligations under this Agreement and will promptly inform the Grantor of any occurrence which might adversely affect its ability to do so in a material way;
- (b) undertake its responsibilities under this Agreement with integrity, good faith and probity in accordance with good corporate governance practices;

- (c) not, nor attempt to, sell, transfer, assign, mortgage, charge or otherwise dispose of or deal with any of its rights, entitlements and powers or obligations under this Agreement;
- (d) comply with all State and Commonwealth laws, rules, regulations and by-laws;
- (e) cooperate fully with the Granter in the administration of this Agreement; and
- (f) upon reasonable notice, provide the Granter or its agents, with access at any reasonable time and from time to time to the Organisation's premises, financial records, other documents, equipment and other property for the purpose of audit and inspection by the Granter in order to verify compliance by the Organisation with this Agreement.

#### **4. REPAYMENT AND RETENTION OF GRANT FUNDS**

The Organisation must repay to the Granter any funds that the Granter has paid which are not used in accordance with this Agreement unless there has been written agreement otherwise between the parties.

#### **5. LIMITATION OF LIABILITY**

The Granter does not accept any responsibility or liability for the success or otherwise of the Approved Purpose and is not liable for any losses which may be suffered by the Organisation in undertaking the Approved Purpose.

#### **6. FREEDOM OF INFORMATION ACT 1992 AND FINANCIAL MANAGEMENT ACT 2006**

- (a) The Organisation acknowledges and agrees that this Agreement and information regarding it is subject to the *Freedom of Information Act 1992* and that the Granter may publicly disclose information in relation to this Agreement, including its terms and the details of the Organisation.
- (b) The parties acknowledge and agree that, despite any provision of this Agreement to the contrary, the powers and responsibilities of the Auditor General under the *Financial Management Act 2006* are not limited or affected by this Agreement.
- (c) The Organisation must allow the Auditor General, or an authorised representative, to have access to and examine the Organisation's records and information concerning this Agreement.

#### **7. NOTICES**

Any notice or other communication that may or must be given under this Agreement:

- (a) must be in writing;
- (b) may be given by an authorised officer of the Party giving notice;

- (c) must be:
  - (i) hand delivered or sent by prepaid post to the address of the Party receiving the notice as set out in item 6 of Schedule 1; or
  - (ii) sent by facsimile to the facsimile number of the Party receiving the notice as set out in item 6 of Schedule 1;
- (d) subject to paragraph (e), is taken to be received:
  - (i) in the case of hand delivery, on the date of delivery;
  - (ii) in the case of post, on the third Business Day after posting; and
  - (iii) in the case of facsimile, on the date of transmission; and
- (e) if received after 5.00 pm or on a day other than a Business Day, is taken to be received on the next Business Day.

## **8. DEFAULT AND TERMINATION**

### **8.1 Event of Default by the Organisation**

An Event of Default occurs if:

- (a) the Organisation breaches any of its obligations under this Agreement which continues without remedy for ten (10) business days after notice in writing has been served on the Organisation by the Grantor;
- (b) the Organisation becomes insolvent or is deemed to be insolvent under the *Corporations Act (Cth)*; or
- (c) if the Grantor has reasonable grounds to believe that the Organisation is unwilling or unable to comply with its obligations under this Agreement.

### **8.2 Effect of Event of Default**

If an Event of Default occurs, the Grantor may either:

- (a) terminate the Agreement by providing a further ten (10) business days notice in writing to the Organisation of the Event of Default; or
- (b) suspend payment of the Grant Funds until the Event of Default is remedied.

### **8.3 Recommencement of Grant Payment**

The Grantor may, in its absolute discretion, recommence payment of the Grant Funds if and when the Organisation has rectified the Event of Default.

### **8.4 Acquittal**

Unless earlier terminated, this Agreement will terminate at the time of Acquittal.

## **9. GOODS AND SERVICES TAX (GST)**

- (a) For the purposes of clause 9:
  - (i) "GST" means the goods and services tax applicable to any taxable supplies as determined by the GST Act; and

- (ii) "GST Act" means *A New Tax System (Goods and Services Tax) Act 1999 (Cth)* and includes all associated legislation and regulations;
  - (iii) the terms "supply", "tax invoice", "taxable supply" and "value" have the same meanings as in the GST Act.
- (b) If the supply of anything under this Agreement is a taxable supply under the GST Act, the Grant Funds shall be inclusive of GST.
- (c) The obligation of the Grantor to pay the GST on any supply by the Organisation under this Agreement is conditional upon the prior issue by the Organisation to the Grantor of a tax invoice, which complies with the GST Act. This provision applies notwithstanding any law to the contrary.
- (d) If the parties agree that the Grantor will issue the Organisation with a Recipient Created Tax Invoice (RCTI), then the parties hereby agree that:
  - (i) the Grantor will issue a RCTI in respect of GST payable on the supply of the Project and the Organisation will not issue tax invoice in respect of that supply;
  - (ii) the Organisation warrants that it is registered for the purposes of GST and the Organisation will notify the Grantor in writing if it ceases to be registered for the purposes of GST during the term of this Agreement ("the Term");
  - (iii) the Grantor warrants that it is registered for the purposes of GST and the Grantor will notify the Organisation in writing if it ceases to be registered for the purposes of GST, or if it ceases to satisfy the requirements of the *GST Act* during the Term; and
  - (iv) the Grantor will indemnify and keep indemnified the Organisation for GST and any related penalty that may arise from an understatement of the GST payable on the supply of the Project for which the Grantor issues a RCTI under this Agreement.

## **10. RELATIONSHIP**

The Parties agree that nothing in this Agreement may be construed to make either of them a partner, agent, employee or joint venturer of the other.

## **11. WAIVER**

- (a) No right under this Agreement shall be deemed to be waived except by notice in writing signed by both parties.
- (b) A waiver by either party will not prejudice that party's rights in relation to any further breach of this Agreement by the other party.
- (c) Any failure to enforce this Agreement, or any forbearance, delay or indulgence granted by one party to the other party, will not be construed as a waiver any rights.

## **12. ENTIRE AGREEMENT**

This Agreement constitutes the entire agreement between the parties and supersedes all communications, negotiations, arrangements and agreements, whether oral or written, between the parties with respect to the subject matter of this Agreement.

**13. VARIATION**

Any modification, amendment or other variation to this Agreement must be made in writing duly executed by both parties.

**14. DISPUTE RESOLUTION**

Before resorting to external dispute resolution mechanisms, the Parties shall in good faith attempt to settle by negotiation any dispute in relation to this Agreement, and where practical, each Party shall refer the matter to personnel who have authority to intervene and facilitate some form of resolution.

**Executed by the parties hereto:**

**For and on behalf of the Grantor:**

\_\_\_\_\_  
**Ms Pearl Craig**  
**A/DIRECTOR COMMUNITY FUNDING**  
**Department of Local Government and Communities**

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Print full name of Witness

**For and on behalf of the Organisation:**

## SCHEDULE 1

### DEFINITION OF PROJECT OR SERVICE TO BE FUNDED

#### 1. **Approved Purpose of Grant**

To provide core funding to XYZ Inc. ( XYZ) for the 2017 calendar year.

#### 2. **Project Definition and/or Anticipated Activities**

XYZ will deliver the following:

- Develop policy positions and advocacy plans in conjunction with particular organisations in order to influence systemic change aimed at improving the lives of all particular people in WA.
- Develop and support partnerships and services which assist vulnerable particular people or particular people with special needs such as Aboriginal and Torres Strait Islander, culturally and linguistically diverse particular people and particular people with diverse sexuality and gender.
- Assist in improving community attitudes to particular people through the implementation of a range of strategies designed to reduce discrimination directed at particular people. XYZ will also encourage strategies which celebrate the contributions made by particular people in WA.
- Provide the necessary infrastructure and systems support to enhance and support the work of the Board of Directors, staff and volunteers of XYZ.
- Oversee the volunteer program including policies and procedures, recruitment, induction and ongoing development of volunteers in liaison with XYZ staff in order to provide opportunities for particular people to participate in a meaningful way and manage risk.

#### 3. **Agreed Budget**

<b>Budget</b>	<b>\$'s</b>
<b>Revenue</b>	
One-off grant	\$130,000
<b>Total Revenue</b>	<b>\$130,000</b>
<b>Expenses</b>	
Organisation operation expenses	\$130,000
<b>Total Expenses</b>	<b>\$130,000</b>

#### 4. **Agreement Term**

Term of project: 27 February 2017 to 31 December 2017

Project acquittal period: 1 January 2018 to 31 January 2018

This agreement will terminate at the time of acquittal. Acquittal means the Grantor has advised the Organisation that the reports and financial information provided by the Organisation in accordance with clause 3.6 are satisfactory.

#### 5. **Special Conditions of Grant**



- (a) If your project involves working with children you must ensure that your organisation and all employees and volunteers comply with the *Working with Children (Criminal Record Checking) Act 2006*. Please refer to this website for further information: [www.checkwwc.wa.gov.au](http://www.checkwwc.wa.gov.au).
- (b) The Department of Local Government and Communities is not liable for any accident or negligence resulting in any claim or damage arising from activities undertaken as part of the Grant. In this respect, recipient organisations are required to be appropriately incorporated and be responsible for their own insurances. This includes but is not limited to, Public Liability, Volunteer Insurance and Professional Indemnity.
- (c) The parties agree that the State will not, by virtue of the Grant, obtain ownership of any intellectual property in or in relation to any material developed by the Organisation (other than material created by the State or provided to the Organisation by the State).
- (d) The Organisation grants to the State a perpetual, irrevocable, royalty-free, world-wide, non-exclusive licence to use, reproduce, adapt and publish the whole or any part or parts of all promotional materials and reports brought into existence by or for the Organisation in connection with this Agreement or the Organisation's use of the Grant.
- (e) You must ensure that participants in the project are not exposed to significant promotions for alcohol or unhealthy food and drinks during the project.

**6. Notice Addresses**

- (a) Grantor                    The State Of Western Australia Acting  
                                      Through The Department of Local Government and Communities  
Registered Mail: Gordon Stephenson House, 140 William Street,  
                                      Perth WA 6000  
Email:                            grants@dlgc.wa.gov.au
- (b) Organisation:        XYZ Inc.  
Registered Mail:  
Email:

**7. Acknowledgement of Grantor**

An acknowledgement of funding assistance provided by the Department of Local Government and Communities must be included in any advertising and on any material relating to the project by using the words 'Supported by the Department of Local Government and Communities'.

**PAYMENT SCHEDULE**

**8. Total Amount of Grant Funds**

Grant Amount \$ 130,000  
GST \$ 13,000

**9. Method of Payment**

Payment of the Grant Funds (inclusive of GST) will be made in the amounts detailed below and within ten (10) business days of the dates listed below:

<b>PAYMENT UPON</b>	<b>AMOUNT TO BE PAID</b>
Receipt of the signed agreements and endorsement by the Grantor	\$143,000

**SCHEDULE 2**  
**REPORTING REQUIREMENTS**

1. Reports to be provided as at:  
  
31 January 2018: Final project report outlining progress against outcomes and activities as per Schedule 1, section 2.
  
2. Evaluation Arrangements  
  
Nil.
  
3. Provide a Statement of Income and Expenditure against the agreed budget as per Schedule 1, Section 3 by 31 January 2018.
  
4. The Statement of Income and Expenditure is to be certified by the Chairman, Chief Executive Officer or equivalent of the Organisation.

