

OFFICIAL



Australian Government

**Department of Infrastructure,
Transport, Regional Development,
Communications and the Arts**

Commonwealth Standard Grant Agreement
between the Commonwealth represented by

**Department of Infrastructure, Transport,
Regional Development, Communications and
the Arts**

ABN 86 267 354 017

and

City of Hobart

39 055 343 428

Derwent Ferry Expansion Project

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Grant Agreement PCIP0078

Once completed, this document, together with each set of Grant Details, the Commonwealth Standard Grant Conditions (Schedule 1) and the Capital Works clauses (Schedule 2), forms an Agreement between the Commonwealth and the Grantee.

Parties to this Agreement

The Grantee

Grantee	Details
Full legal name of Grantee	City of Hobart
Legal entity type (e.g. individual, incorporated association, company, partnership etc)	Australian Local Government
Trading or business name	City of Hobart
Any relevant licence, registration or provider number	N/A
Australian Company Number (ACN) or other entity identifiers	N/A
Australian Business Number (ABN)	39 055 343 428
Registered for Goods and Services Tax (GST)?	Yes
Date from which GST registration was effective?	1 July 2000
Registered office address (physical/postal)	Town Hall, Macquarie Street, Hobart, Tasmania 7001
Relevant business place address (if different)	As above
Telephone	03 6238 2711
Email	ceo@hobartcity.com.au

The Commonwealth

The Commonwealth of Australia is represented by the Department of Infrastructure, Transport, Regional Development, Communications and the Arts of 111 Alinga Street, Canberra, ACT 2601.

ABN 86 267 354 017

Background

The Commonwealth has agreed to enter this Agreement under which the Commonwealth will provide the Grantee with one or more Grants for the purpose of assisting the Grantee to undertake the associated Activity.

The Grantee agrees to use each Grant and undertake each Activity in accordance with this Agreement and the relevant Grant Details.

Scope of this Agreement

This Agreement comprises:

- (a) this document;
- (b) the Supplementary Terms from the Clause Bank (if any);
- (c) the Capital Works Clauses (Schedule 2) including the Annexure to Schedule 2;
- (d) the Standard Grant Conditions (Schedule 1);
- (e) the Grant Details; and
- (g) any other document referenced or incorporated in the Grant Details.

Each set of Grant Details, including Supplementary Terms (if any), only applies to the particular Grant and Activity covered by that set of Grant Details and a reference to the 'Agreement' in the Grant Details or the Supplementary Terms is a reference to the Agreement in relation to that particular Grant and Activity. If there is any ambiguity or inconsistency between the documents comprising this Agreement in relation to a Grant, the document appearing higher in the list will have precedence to the extent of the ambiguity or inconsistency.

This Agreement represents the Parties' entire agreement in relation to each Grant provided under it and the relevant Activity and supersedes all prior representations, communications, agreements, statements and understandings, whether oral or in writing.

Certain information contained in or provided under this Agreement may be used for public reporting purposes.

Grant Details PCIP0078

A. Purpose of the Grant

The purpose of the Grant is to support the community through the expansion of the Derwent River ferry service by designing, developing and constructing three public ferry terminals on the River Derwent, Tasmania.

This Grant is being provided under Priority Community Infrastructure Program, (the **Program**) and these Grant Details form part of the Agreement between the Commonwealth and the Grantee as at the date of execution for PCIP0078 for the Derwent Ferry Expansion Project.

The Grant is being provided as part of the Program.

B. Activity

The Grantee must deliver the design, development and construction of public ferry terminals at three prospective locations as part of the expanded ferry network on the River Derwent, Tasmania.

The project includes the following Activities:

B.1. Design and Approval Stage (PCIP contribution of up to \$2,300,000 GST exclusive)

Phase 1 (design progression)

- Procurement of initial structural designs and associated architectural work, including the technical specifications for the terminals, mooring, fendering, gangways and roof structures, for the proposed ferry extension locations at:
 - Ford Parade, Lindisfarne, Tasmania 7015
 - Brooker Highway, Wilkinson Point, Tasmania 7010
 - Sandy Bay Road, Sandy Bay, Tasmania 7005
- Procurement of P90 cost estimates of the designs for the proposed ferry extension locations.

Phase 2 (detailed design Lindisfarne)

- Detailed design and associated statutory approvals for the mooring, fendering, gangways and roof structure, for the proposed public ferry terminal located at Ford Parade, Lindisfarne.

Phase 3 (detailed design Wilkinsons Point)

- Detailed design and associated statutory approvals for the mooring, fendering, gangways and roof structure, for the proposed public ferry terminal located at Brooker Highway, Wilkinson Point.

Phase 4 (detailed design Sandy Bay)

- Detailed design and associated statutory approvals for the mooring, fendering, gangways and roof structure, for the proposed public ferry terminal located at Sandy Bay Road, Sandy Bay.

B.2. Construction Stage (PCIP contribution of up to \$20 million, less the costs at Activity B.1)

Activities for Item B.2 will be reviewed and updated to reflect outcomes from Activity B.1 Design Stage following completion of Activities at Item B.1. Construction of public ferry terminals at the following locations:

- Lindisfarne, Tasmania 7015
- Wilkinson Point, Tasmania 7010
- Sandy Bay, Tasmania 7005

The Grantee must undertake the Activity so as to meet the following outcomes:

- Provision of new community infrastructure through the delivery of the Derwent Ferry Expansion Project that improves connectivity, social cohesion, and greater accessibility to services across Greater Hobart with the expanded ferry network.

The Grantee must complete the milestones specified in the table below by the corresponding due date. If the Grantee does not complete a milestone described as a critical milestone by the corresponding due date, the parties agree that the Commonwealth may treat such failure as a breach of this Agreement incapable of remedy for the purposes of clause 19 of Schedule 1 (Commonwealth Standard Grant Conditions).

Milestone	Critical Milestone (Yes/No)	Due Date
Completion of the Design Stage at Item B.1 including confirmation of locations and completion of initial design of the 3 terminals	Yes	1 July 2025

The Grantee must maintain and operate the completed Capital Works for five years following the Date for Practical Completion (**Operational Period**). During the Operational Period, the Grantee must, if requested by the Commonwealth to do so, promptly provide evidence to the Commonwealth that the completed Capital Works are maintained and operational.

The Grantee must conduct an official opening of the completed Activity unless otherwise agreed by the Commonwealth within **six months** of the Date for Practical Completion. The Grantee must conduct the official opening in the manner and form approved by the Commonwealth prior to the official opening and must invite the Commonwealth Minister responsible for Infrastructure to the official opening at least **40 Business Days** before the official opening.

C. Duration of the Grant

The Activity starts on the date this Agreement was executed by both Parties.

The Activity (other than the provision of any final reports) ends on the Commonwealth’s acceptance in writing of the Activity Completion Report which is the **Activity Completion Date**.

The Agreement ends five years from the date the Commonwealth accepts to its satisfaction, the Activity Completion Report (the **Agreement End Date**).

D. Payment of the Grant

Subject to the terms of this Agreement, the total amount of the Grant is up to \$20 million (GST excl) and comprises of:

- up to \$2,300,000 GST exclusive being provided for the Design Stage (Activity B.1), and
- up to \$20,000,000 less the costs for Activity B.1 being provided for the Construction Stage (Activity B.2) and dependent on review of outcomes from Activity B.1.

GST is not payable on the Grant.

Interest can be earned on the Grant.

The Grantee’s nominated bank account into which the Grant is paid is:

Bank Name	Account Name	BSB Number	Account Number
Westpac	Hobart City Council	037-001	779094

Subject to any right of the Commonwealth to withhold payment of the Grant under clause 2.2 of Schedule 1, the Grant will be paid in instalments by the Commonwealth upon satisfactory completion of the agreed payment milestones as set out in the table in Item E below.

Invoicing

The Grantee agrees to allow the Commonwealth to issue it with a Recipient Created Tax Invoice (RCTI) for any taxable supplies it makes in relation to the Activity. The Commonwealth will issue the Grantee with a RCTI when a payment associated with a Progress Report or Completion Report is approved for payment.

E. Reporting

The Grantee agrees to create the following reports in the form specified by the Commonwealth and to provide the reports to the Commonwealth representative in accordance with the following:

Report	Milestone(s) / Information covered by the Report	Milestone Completion Date	Payment amount (GST Exclusive)	Due Date for Report	Due Date for Funding Payment
Activity Item B.1 – Design Stage					
Progress Report 1	Evidence acceptable to the Commonwealth that the following has been achieved: <ul style="list-style-type: none"> the Activity at Item B.1 (Phase 1), including the initial structural designs and associated architectural work, and P90 cost estimates for the designs, is complete ferry terminal locations are confirmed. 	15/07/2024	\$400,000	12/08/2024	26/08/2024
Progress Report 2	Evidence acceptable to the Commonwealth that the following has been achieved: <ul style="list-style-type: none"> project update on the three ferry terminals milestones for Activity B.1 to be reviewed with a Variation request submitted if required 	1/10/2024	Nil	1/11/2024	N/A

Report	Milestone(s) / Information covered by the Report	Milestone Completion Date	Payment amount (GST Exclusive)	Due Date for Report	Due Date for Funding Payment
Progress Report 3	<p>Evidence acceptable to the Commonwealth that the following has been achieved:</p> <ul style="list-style-type: none"> the Activity described as Phase 2 (detailed design Lindisfarne) in Item B.1 is complete formal lease arrangements are in place for proposed public ferry terminal located at Ford Parade, Lindisfarne. milestones for Activity B.1 to be reviewed with a Variation request submitted if required. 	2/1/2025	\$750,000	3/2/2025	17/2/2025
Progress Report 4	<p>Evidence acceptable to the Commonwealth that the following has been achieved:</p> <ul style="list-style-type: none"> the Activity described as Phase 3 (detailed design Wilkinson Point) in Item B.1 is complete formal lease arrangements are in place for proposed public ferry terminal located at Brooker Highway, Wilkinson Point. milestones for Activity B.1 to be reviewed with a Variation request submitted if required. 	1/4/2025	\$400,000	1/5/2025	19/5/2025

Report	Milestone(s) / Information covered by the Report	Milestone Completion Date	Payment amount (GST Exclusive)	Due Date for Report	Due Date for Funding Payment
Progress Report 5	<p>Evidence acceptable to the Commonwealth that the following has been achieved:</p> <ul style="list-style-type: none"> the Activity described as Phase 4 (detailed design Sandy Bay) in Item B.1 is complete formal lease arrangements are in place for proposed public ferry terminal located at Sandy Bay activity and milestones for Activity B.2 to be reviewed with a Variation request submitted if required. 	1/7/2025	\$750,000	1/8/2025	18/09/2025
<p>Activity Item B.2 – Construction Stage (pending review of outcomes from Activity B.1 Design Stage.) Milestones for Construction Stage to be reviewed with a Variation request submitted if required.</p>					

Report	Milestone(s) / Information covered by the Report	Milestone Completion Date	Payment amount (GST Exclusive)	Due Date for Report	Due Date for Funding Payment
Progress Report 6	<p>Evidence acceptable to the Commonwealth that the following has been achieved:</p> <ul style="list-style-type: none"> • in relation to the terminals located at Lindisfarne and Wilkinsons Point, <ul style="list-style-type: none"> ○ final costs have been confirmed ○ final designs have been confirmed ○ tender contract(s) have been awarded ○ confirmation that the awarded contractor(s) is compliant with the WHS Accreditation Scheme, as per clause 16.3 of Schedule 2 • 60 per cent of the Capital Works in Item B.2 is complete and certified by the Project Manager, Quantity Surveyor, or similar. • milestones and Activity B.2 for the construction stage to be reviewed with a Variation request submitted if required. 	3/11/2025	\$11,000,000	2/12/2025	16/12/2025

Report	Milestone(s) / Information covered by the Report	Milestone Completion Date	Payment amount (GST Exclusive)	Due Date for Report	Due Date for Funding Payment
Progress Report 7	<p>Evidence acceptable to the Commonwealth that the following has been achieved:</p> <ul style="list-style-type: none"> • in relation to the terminal located at Sandy Bay, <ul style="list-style-type: none"> ○ final costs have been confirmed ○ final designs have been confirmed ○ tender contract has been awarded ○ confirmation that the awarded contractor is compliant with the WHS Accreditation Scheme, as per clause 16.3 of Schedule 2. • 85 per cent of the Capital Works in Item B.2 is complete and certified by the Project Manager, Quantity Surveyor, or similar. • an Event Request Form using the template provided by the Commonwealth in relation to the official opening of the Activity has been submitted to the Commonwealth for approval. • milestones and Activity B.2 for the construction stage to be reviewed with a Variation request submitted if required. 	1/4/2026	\$4,700,000	1/5/2026	18/5/2026

Report	Milestone(s) / Information covered by the Report	Milestone Completion Date	Payment amount (GST Exclusive)	Due Date for Report	Due Date for Funding Payment
Activity Completion Report	<p>Evidence acceptable to the Commonwealth that the following have been achieved:</p> <ul style="list-style-type: none"> the Activity at item B.2 of the Schedule is completed and certified by the Project Manager, Quantity Surveyor, or similar; an independently audited financial acquittal report verifying the Grant payments made to date have been spent in accordance with this Agreement; and the Capital Works are fully operational. 	1/7/2026	\$2,000,000	1/10/2026	20/10/2026

F. Party representatives and address for notices

F.1 Grantee's representative and address

Grantee Representative	Details
Name	Michael Stretton
Position	Chief Executive Officer
Postal/physical address(es)	Town Hall, Macquarie Street, Hobart Tasmania 7001
Business hours telephone	03 6238 2710
Mobile	N/A
E-mail	ceo@hobartcity.com.au
Alternative contact	Glenn Doyle, doyleg@hobartcity.com.au

F.2 Commonwealth representative and address

Commonwealth Representative	Details
Name	Katrina Kendall
Position	Assistant Secretary
Postal/physical address(es)	GPO Box 594 CANBERRA ACT 2601
Business hours telephone	1800 044 938
E-mail	PCIP@infrastructure.gov.au

The Parties' representatives will be responsible for liaison and the day-to-day management of the Grant, as well as accepting and issuing any written notices in relation to the Grant.

G. Activity Material

Activity Materials	Details
Initial structural design and P90 costing of the ferry terminals	Complete the initial structural designs and associated architectural work, and P90 cost estimates of ferry terminals located at: <ul data-bbox="730 360 1359 465" style="list-style-type: none">• Ford Parade, Lindisfarne, Tasmania 7015• Sandy Bay Road, Sandy Bay, Tasmania 7005• Brooker Highway, Wilkinson Point, Tasmania 7010

Supplementary Terms from Clause Bank

1. Other Contributions

1.1 In this Agreement, Other Contributions means the financial or in-kind contributions other than the Grant set out in the following table:

Contributor	Nature of Contribution	Cash contribution \$ (GST excl)	In-kind contribution \$ (GST excl)	Timing
City of Hobart Council	Cash for landside access to infrastructure once terminals are established. Co-funding cannot be used to fund any upfront design costs	\$500,000	N/A	For the term of the project
City of Clarence Council	Cash for landside access to infrastructure once terminals are established. Co-funding cannot be used to fund any upfront design costs	\$500,000	N/A	For the term of the project
City of Glenorchy Council	Cash for landside access to infrastructure once terminals are established. Co-funding cannot be used to fund any upfront design costs	\$500,000	N/A	For the term of the project
Total		\$1,500,000	N/A	

1.2 The Grantee agrees to provide, or to ensure the provision of, the Other Contributions and to use them to undertake the Activity. If the Other Contributions are not provided or used in accordance with this clause, then the Commonwealth may:

- a) suspend payment of the Grant until the Other Contributions are provided; or
- b) terminate this Agreement in accordance with clause 19 of this Agreement.

2. Activity Budget

2.1 The Grantee agrees to use the Grant and any Other Contributions and undertake the Activity consistently with the Activity Budget in the following table:

Expenditure Item	Description	Grant Contributions (GST excl)	Other Contributions		Total Cost (GST excl)
			Grantee (GST excl)	Third parties (GST excl)	
Derwent Ferry Expansion Project - Activity Item B.1	Designs and P90 Cost Estimates for three (3) ferry terminals	Up to \$2,300,000	Nil	Nil	Up to \$2,300,000
Derwent Ferry Expansion Project - Activity Item B.2	Procurement and Construction of three (3) ferry terminals including access infrastructure	Up to \$20,000,000 less costs at Activity B.1 (Maximum total \$20,000,000 PCIP funding contribution)	\$500,000	\$1,000,000	Up to \$21,500,000 less costs at Activity B.1

3. Intellectual property in Activity Material

- 3.1 The Grantee agrees, on request from the Commonwealth, to provide the Commonwealth with a copy of any Activity Material in the format reasonably requested by the Commonwealth.
- 3.2 The Grantee provides the Commonwealth a permanent, non-exclusive, irrevocable, royalty-free licence (including a right to sub license) to use, modify, communicate, reproduce, publish, and adapt the Activity Material for Commonwealth Purposes.
- 3.3 The Grantee warrants that the provision of Activity Material in accordance with the Agreement (and the use of specified Activity Material in accordance with clause 3.2) will not infringe any third party's Intellectual Property Rights.
- 3.4 The Grantee will obtain written moral rights consents (other than in relation to acts of false attribution) from all authors of Reporting Material, and any Activity Material, to the use of that Material by the Commonwealth in accordance with this Agreement, prior to that Material being provided to the Commonwealth.

3A. Intellectual property – research

Not Applicable

3B. Creative Commons licence

Not Applicable

4. Access/Monitoring/Inspection

- 4.1 The Grantee agrees to give the Commonwealth, or any persons authorised in writing by the Commonwealth:

- a) access to premises where the Activity is being performed and/or where Material relating to the Activity is kept within the time period specified in a Commonwealth notice; and
- b) permission to inspect and take copies of any Material relevant to the Activity.

4.2 The Auditor-General and any Information Officer under the *Australian Information Commissioner Act 2010* (Cth) (including their delegates) are persons authorised for the purposes of clause 4.1.

4.3 This clause 4 does not detract from the statutory powers of the Auditor-General or an Information Officer (including their delegates).

5. Equipment and Assets

5.1 In this Agreement:

Asset means any item of property purchased, leased, created or otherwise brought into existence wholly, or in part, with the use of the Grant excluding Activity Material, Intellectual Property Rights.

5.2 The Grantee agrees to obtain the Commonwealth's prior written approval to use the Grant to purchase any item of equipment or Asset apart from those listed in the Activity Budget and/or detailed below: Not Applicable

5.3 Unless otherwise agreed in writing by the Commonwealth, the Grantee must ensure that it owns any equipment or Asset acquired with the Grant.

5.4 Unless to the extent the Commonwealth agrees otherwise in writing, the Grantee agrees to use the Asset for the purpose of the Activity. The Commonwealth may give its agreement subject to conditions and the Grantee must comply with any such conditions.

5.5 The Grantee agrees to maintain a register of all Assets at the time of the Asset's purchase, lease, creation or bringing into existence in the form specified below and to provide the register to the Commonwealth upon request.

Item Number	Description	Date of acquisition	Grant Contributions	Other Contributions - Grantee	Other Contributions - Third Parties

5.6 On expiration or termination of the Agreement, the Grantee agrees to transfer any Asset to the Commonwealth or a third party nominated by the Commonwealth or otherwise deal with the Asset as directed by the Commonwealth.

6. Specified Personnel

6.1 The Grantee agrees to remove any personnel (including subcontractors, agents or volunteers) involved in the Activity at the request of the Commonwealth.

6.2 If clause 6.1 applies, the Grantee will provide replacement personnel acceptable to and at no additional cost to the Commonwealth at the earliest opportunity and without any interruption to the Grantee's compliance with its other obligations under this Agreement.

6.3 The Grantee agrees to remove any personnel (including Specified Personnel, subcontractors, agents or volunteers) involved in the Activity at the request of the Commonwealth.

6.4 If clause 6.2 or clause 6.3 applies, the Grantee will provide replacement personnel acceptable to and at no additional cost to the Commonwealth at the earliest opportunity and without any interruption to the Grantee's compliance with its other obligations under this Agreement.

7. Relevant qualifications, licences, permits, approvals or skills

7.1 The Grantee agrees to ensure that personnel performing work in relation to the Activity:

- (a) are appropriately qualified to perform the tasks indicated;
- (b) have obtained the required qualifications, licences, permits, approvals or skills before performing any part of the Activity; and
- (c) continue to maintain all relevant qualifications, licences, permits, approvals or skills for the duration of their involvement with the Activity.

8. Vulnerable Persons

Not Applicable

9. Child safety

9.1 In this Agreement:

- (a) **Child** means an individual(s) under the age of 18 years and Children has a similar meaning;
- (b) **Child-Related Personnel** means officers, employees, contractors (including subcontractors), agents and volunteers of the Grantee involved with the Activity who as part of that involvement may interact with Children;
- (c) **Legislation** means a provision of a statute or subordinate legislation of the Commonwealth, or of a State, Territory or local authority;
- (d) **National Principles for Child Safe Organisations** means the National Principles for Child Safe Organisations, which have been endorsed in draft form by the Commonwealth Government (available at: <https://www.humanrights.gov.au/national-principles-child-safe-organisations>) and subsequently, from the time of their endorsement by the Council of Australian Governments, the final National Principles for Child Safe Organisations as published by the Department of Social Services;
- (e) **Relevant Legislation** means Legislation in force in any jurisdiction where any part of the Activity may be carried out;
- (f) **Working With Children Check or WWCC** means the process in place pursuant to Relevant Legislation to screen an individual for fitness to work with Children.

Relevant checks and authority

9.2 The Grantee must:

- (a) comply with all Relevant Legislation relating to the employment or engagement of Child-Related Personnel in relation to the Activity, including all necessary Working With Children Checks however described; and
- (b) ensure that Working With Children Checks obtained in accordance with this clause remain current and that all Child-Related Personnel continue to comply with all Relevant Legislation for the duration of their involvement in the Activity.

National Principles for Child Safe Organisations and other action for the safety of Children

9.3 The Grantee agrees in relation to the Activity to:

- (a) implement the National Principles for Child Safe Organisations;
- (b) ensure that all Child-Related Personnel implement the National Principles for Child Safe Organisations;

-
- (c) complete and update, at least annually, a risk assessment to identify the level of responsibility for Children and the level of risk of harm or abuse to Children;
 - (d) put into place and update, at least annually, an appropriate risk management strategy to manage risks identified through the risk assessment required by this clause 11.3;
 - (e) provide training and establish a compliance regime to ensure that all Child-Related Personnel are aware of, and comply with:
 - i. the National Principles for Child Safe Organisations;
 - ii. the Grantee's risk management strategy required by this clause 9.3;
 - iii. Relevant Legislation relating to requirements for working with Children, including Working With Children Checks;
 - iv. Relevant Legislation relating to mandatory reporting of suspected child abuse or neglect, however described; and
 - (f) provide the Commonwealth with an annual statement of compliance with clauses 9.2 and 9.3, in such form as may be specified by the Commonwealth.
 - (g) ensure that any subcontract entered into by the Grantee for the purposes of this Agreement imposes the same obligations in clauses 9.3(a) to (e) on the subcontractor and also requires the subcontractor to include those obligations in any secondary subcontracts.
- 9.4 With reasonable notice to the Grantee, the Commonwealth may conduct a review of the Grantee's compliance with this clause 9.
- 9.5 The Grantee agrees to:
- (a) notify the Commonwealth of any failure to comply with this clause 9;
 - (b) co-operate with the Commonwealth in any review conducted by the Commonwealth of the Grantee's implementation of the National Principles for Child Safe Organisations or compliance with this clause 9; and
 - (c) promptly, and at the Grantee's cost, take such action as is necessary to rectify, to the Commonwealth's satisfaction, any failure to implement the National Principles for Child Safe Organisations or any other failure to comply with this clause 9.

10. Commonwealth Material, facilities and assistance

Not Applicable

11. Jurisdiction

11.1 This Agreement is governed by the law of Australian Capital Territory ACT.

12. Grantee trustee of Trust

Not Applicable

13. Fraud

- 13.1 In this Agreement, **Fraud** means dishonestly obtaining a benefit, or causing a loss, by deception or other means, and includes alleged, attempted, suspected or detected fraud.
- 13.2 The Grantee must ensure its personnel and subcontractors do not engage in any Fraud in relation to the Activity.
- 13.3 If the Grantee becomes aware of:
- a) any Fraud in relation to the performance of the Activity; or
 - b) any other Fraud that has had or may have an effect on the performance of the Activity;
- then it must within 5 business days report the matter to the Commonwealth and all appropriate law enforcement and regulatory agencies.
- 13.4 The Grantee must, at its own cost, investigate any Fraud referred to in clause 15.3 in accordance with the Australian Government Investigations Standards available at www.ag.gov.au.
- 13.5 The Commonwealth may, at its discretion, investigate any Fraud in relation to the Activity. The Grantee agrees to co-operate and provide all reasonable assistance at its own cost with any such investigation.

13.6 This clause survives the termination or expiry of the Agreement.

14. Prohibited dealings

14.1 Not Applicable

15. Anti-corruption

15.1 In this Agreement, **Illegal or Corrupt Practice** means directly or indirectly:

- (a) making or causing to be made, any offer, gift, payment, consideration or benefit of any kind to any party, or
- (b) receiving or seeking to receive, any offer, gift, payment, consideration or benefit of any kind from any party, as an inducement or reward in relation to the performance of the Activity, which would or could be construed as an illegal or corrupt practice.

15.2 The Grantee warrants that the Grantee, its officers, employees, contractors, agents and any other individual or entity involved in carrying out the Activity have not, engaged in an Illegal or Corrupt Practice.

15.3 The Grantee agrees not to, and to take all reasonable steps to ensure that its officers, employees, contractors, agents and any other individual or entity involved in carrying out the Activity do not:

- (a) engage in an Illegal or Corrupt Practice; or
- (b) engage in any practice that could constitute the offence of bribing a foreign public official contained in section 15.4 The Grantee agrees to inform the Commonwealth within five business days if the Grantee becomes aware of any activity as described in 15.3 in relation to the performance of the Activity.

16. Step-in rights

16.1 If:

- (a) the Commonwealth issues a notice under clause 2.2 of Schedule 1;
- (b) an event in clause 19.3.1.c of Schedule 1 occurs; or
- (c) the Grantee requests that the Commonwealth exercise its rights under this clause, the Commonwealth may, at its discretion, give a notice to the Grantee that the Commonwealth intends to exercise its rights under this clause 16 and the date from which this notice will take effect (Step In Notice).

16.2 From the date specified in the Step-in Notice:

- (a) other than as directed by the Commonwealth, the Grantee will cease being responsible for the performance of the Activity;
- (b) the Commonwealth may, acting on its own behalf or through a nominee, take any step to manage the Activity that is reasonably necessary as determined by the Commonwealth and having regard to the trigger event(s) giving rise to the relevant Step-in Notice;
- (c) the Commonwealth's obligation to pay the Grant is suspended; and
- (d) the Grantee agrees to provide all reasonable assistance and comply with any direction of the Commonwealth to enable the Commonwealth to exercise its rights under this clause and manage the Activity.

16.3 The Commonwealth may withdraw the Step-in Notice if in the Commonwealth's reasonable opinion:

- (a) the circumstances giving rise to the trigger event have ceased or are able to be appropriately managed by the Grantee; and
- (b) the Grantee will otherwise be able to comply with its obligations under this Agreement.

16.4 The Commonwealth will by written notice advise the Grantee of:

- (a) the date when the Step-in Notice will be withdrawn and the Grantee will resume responsibility for the Activity; and
- (b) the amount by which the Grant will be reduced, which will be proportionate to the costs incurred by the Commonwealth in exercising its rights under this clause.

17. Grant Administrator

- 17.1 If the Commonwealth issues a notice under clause 2.2 of Schedule 1 the Commonwealth may appoint an administrator to oversee the performance of the Activity and the management of the Grant (Grant Administrator).
- 17.2 The Commonwealth can appoint a Grant Administrator for any period and on any terms and conditions that the Commonwealth considers appropriate.
- 17.3 The Commonwealth will give the Grantee notice of the appointment of a Grant Administrator that specifies:
- (a) the proposed period of the appointment;
 - (b) the roles and responsibilities of the Grant Administrator; and
 - (c) a summary of reasons why the Commonwealth has made the appointment, if the Commonwealth considers that providing such a summary is practicable and appropriate.
- 17.4 The Commonwealth may appoint more than one Grant Administrator at the same time.
- 17.5 The Grantee agrees to:
- (a) consider, in a timely manner and in good faith, all advice given to the Grantee by a Grant Administrator;
 - (b) co-operate actively, fully and in good faith with, and provide all assistance, material and facilities reasonably required by a Grant Administrator; and
 - (c) comply with all directions given by a Grant Administrator relating to the administration of the Grant.
- 17.6 A Grant Administrator that provides a report to the Commonwealth:
- (a) does so independently of the Grantee; and
 - (b) does not reduce the Grantee's obligations to provide reports under this Agreement.
- 17.7 A Grant Administrator is not an employee, officer, director, agent or contractor of the Grantee, nor an agent of the Commonwealth, and is not appointed to act, and does not act, in any such capacity. A Grant Administrator cannot enter into agreements for or on behalf of the Grantee or otherwise incur debts or other obligations on the Grantee's behalf.

18. Management Adviser

- 18.1 If the Commonwealth issues a notice under a clause 2.2 of Schedule 1, the Commonwealth may, at its discretion and at its own cost, appoint an adviser to perform functions as determined by the Commonwealth (Management Adviser), which may include:
- (a) advising the Grantee on:
 - (i) the Grantee's operations and corporate governance arrangements;
 - (ii) the management of the Activity;
 - (iii) the management of the Grantee's personnel;
 - (b) with the Grantee's consent, assisting the Grantee with any of the matters specified in the Grant Details;
 - (c) cooperating with any Grant Administrator appointed in respect of the Grantee under this Agreement; and
 - (d) providing any other advice to the Grantee that the Commonwealth requires.
- 18.2 The Commonwealth will give the Grantee notice of its intention to appoint a Management Adviser that specifies:
- (a) the proposed period of the appointment;
 - (b) the proposed roles and responsibilities of the Management Adviser; and
 - (c) if the Commonwealth considers it practicable and appropriate, a summary of reasons why the Commonwealth intends to make the appointment.
- 18.3 Without limiting the Commonwealth's discretion to appoint a Management Adviser and where practicable, the Grantee shall have 14 days after the Grantee receives the Commonwealth's notice of intention given pursuant to 18.2 to provide the Commonwealth with reasons why a Management Adviser should not be appointed.

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- 18.4 Upon appointment of a Management Adviser, the Commonwealth shall inform the Grantee of the scope of the appointment and its duration and of any extensions to the period of appointment.
 - 18.5 The Grantee agrees to cooperate with a Management Adviser and comply with any directions and recommendations given by the Management Adviser in relation to the performance of this Agreement.
 - 18.6 A Management Adviser who provides a report to the Commonwealth in relation to the Grantee:
 - (a) does so independently of the Grantee; and
 - (b) does not reduce the Grantee's obligations to provide Reports to the Commonwealth under this Agreement.
 - 18.7 A Management Adviser is not an employee, officer, director, agent or contractor of the Grantee, nor an agent of the Commonwealth, and is not appointed to act, and does not act, in any such capacity. A Management Adviser is not appointed to act, and does not act, as a member or shadow member of the Grantee's governing board. A Management Adviser cannot enter into agreements for or on behalf of the Grantee or otherwise incur debts or other obligations on the Grantee's behalf.

19. Indemnities

- 19.1 The Grantee indemnifies the Commonwealth, its officers, employees and contractors against any claim, loss or damage arising in connection with the Activity.
- 19.2 The Grantee's obligation to indemnify the Commonwealth will reduce proportionally to the extent any act or omission involving fault on the part of the Commonwealth contributed to the claim, loss or damage.

20. Compliance with Legislation and policies

- 20.1 In this Agreement, Legislation means a provision of a statute or subordinate legislation of the Commonwealth, or of a State, Territory or local authority
- 20.2 The Grantee agrees to comply with all Legislation applicable to its performance of this Agreement.
- 20.3 The Grantee agrees, in carrying out its obligations under this Agreement, to comply with any of the Commonwealth's policies or guidelines as notified, referred or made available by the Commonwealth to the Grantee (including by reference to an internet site).

21. Work health and safety

- 21.1 The Grantee agrees to ensure that it complies at all times with all applicable work health and safety Legislative and regulatory requirements and any additional work health and safety requirements set out in the Grant Details.
- 21.2 If requested by the Commonwealth, the Grantee agrees to provide copies of its work health and safety management plans and processes and such other details of the arrangements it has in place to meet the requirements referred to in clause 21.1.
- 21.3 When using the Commonwealth's premises or facilities, the Grantee agrees to comply with all reasonable directions and procedures relating to work health and safety and security in effect at those premises or in regard to those facilities, as notified by the Commonwealth or as might reasonably be inferred from the use to which the premises or facilities are being put.

22. Transition

Not applicable

23. Corporate governance

- 23.1 In this Agreement, **Constitution** means (depending on the context):
 - (a) a company's or incorporated association's constitution, or equivalent documents, which (where relevant) includes rules and any amendments that are part of the constitution;
 - (b) in relation to any other kind of body:
 - (i) the body's charter or memorandum; or
 - (ii) any instrument or law constituting or defining the constitution of the body or governing the activities of the body or its members.
 - 23.2 The Grantee warrants that nothing in its Constitution conflicts with its obligations under this Agreement.
-

23.3 The Grantee agrees to provide a copy of its Constitution to the Commonwealth upon request and inform the Commonwealth whenever there is a change in the Grantee's Constitution, structure or management.

24. Counterparts

24.1 This Agreement may be executed in any number of counterparts. All counterparts, taken together, constitute one instrument. A Party may execute this Agreement by signing any counterpart.

25. Employees subject to SACS Decision

Not applicable

26. Program interoperability with National Disability Insurance Scheme

Not applicable

27. Rollover of surplus and uncommitted funds

Not applicable

28. Secret and Sacred Indigenous Material

28.1 In this clause:

Aboriginal Person has the same meaning given in the Aboriginal and Torres Strait Islander Act 2005 (Cth);
Aboriginal Tradition has the meaning given in the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* (Cth);

Indigenous Person means a person who is or identifies and is accepted as an Aboriginal Person or a Torres Strait Islander;

Secret and Sacred Indigenous Material means all information, knowledge or Material of special spiritual, cultural or customary significance which is considered to be sacred or of significance by an Indigenous Person or according to Aboriginal Tradition; and

Torres Strait Islander Person has the same meaning given in the *Aboriginal and Torres Strait Islander Act 2005* (Cth).

28.2 The parties agree that, for the purposes of this Agreement:

- (a) the definition of Activity Material in clause 22 of Schedule 1 excludes any Secret and Sacred Indigenous Material;
- (b) the definition of Reporting Material in clause 22 of Schedule 1 excludes any Secret and Sacred Indigenous Material;
- (c) the record keeping requirements in clause 12 of Schedule 1 do not apply to any Secret and Sacred Indigenous Material; and
- (d) any Secret and Sacred Indigenous Material is the confidential information of the relevant Indigenous Person or Indigenous community.

28.3 The Grantee agrees to inform the Commonwealth of the existence of Secret and Sacred Indigenous Material relevant to the performance of the Activity which is not disclosed to the Commonwealth due it being Secret and Sacred Indigenous Material.

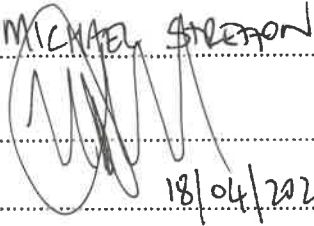
Signatures

Executed as an agreement:

Commonwealth:

	Signed for and on behalf of the Commonwealth of Australia as represented by the Department of Infrastructure, Transport, Regional Development, Communications and the Arts, ABN: 86 267 354 017
Name (Print): Assistant Secretary Major Projects and Governance
Signature:
Date:
Witness Name (Print): Major Projects and Governance
Signature:
Date:

Grantee:

Full legal name of the Grantee:	City of Hobart, ABN: 39 055 343 428
Name (Print):	MICHAEL STEPHEN
Signature:	
Date:	18/04/2024
Witness Name (Print):
Signature:
Date:

Schedule 1: Commonwealth Standard Grant Conditions

1. Undertaking the Activity

- 1.1 The Grantee agrees to undertake the Activity for the purpose of the Grant in accordance with this Agreement.
- 1.2 The Grantee is fully responsible for the Activity and for ensuring the performance of all its obligations under this Agreement in accordance with all relevant laws. The Grantee will not be relieved of that responsibility because of:
 - (a) the grant or withholding of any approval or the exercise or non-exercise of any right by the Commonwealth; or
 - (b) any payment to, or withholding of any payment from, the Grantee under this Agreement.
- 1.3 The Grantee agrees that for the term of this Agreement, the Grantee will continue to meet the eligibility obligations relating to the National Redress Scheme (www.nationalredress.gov.au) set out under the relevant grant opportunity guidelines to receive the Grant.

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2. Payment of the Grant

- 2.1 The Commonwealth agrees to pay the Grant to the Grantee in accordance with the Grant Details.
- 2.2 Notwithstanding any other provision of this Agreement, the Commonwealth may by notice withhold payment of any amount of the Grant and/or take any other action specified in the Supplementary Terms if it reasonably believes that:
 - (a) the Grantee has not complied with this Agreement;
 - (b) the Grantee is unlikely to be able to perform the Activity or manage the Grant in accordance with this Agreement;
 - (c) there is a serious concern relating to the Grantee or this Agreement that requires investigation; or
 - (d) any previously paid portion of the Grant has not been expended or committed in accordance with this Agreement.
- 2.3 A notice under clause 2.2 will contain the reasons for any action taken under clause 2.2 and, where relevant, the steps the Grantee can take to address those reasons.
- 2.4 The Commonwealth will only be obliged to pay a withheld amount once the Grantee has addressed the reasons contained in a notice under clause 2.2 to the Commonwealth's reasonable satisfaction.
- 2.5 The Grantee agrees to hold the Grant in an account in the Grantee's name and which the Grantee controls, with an authorised deposit-taking institution authorised by the *Banking Act 1959* (Cth) to carry on banking business in Australia.

3. Acknowledgements and Events

- 3.1 The Grantee agrees not to make any public announcement, including by social media, in connection with the awarding of the Grant without the Commonwealth's prior written approval.
- 3.2 The Grantee agrees to acknowledge the Commonwealth's support in all Material, publications and promotional and advertising materials published in connection with this Agreement. The Commonwealth may notify the Grantee of the form of acknowledgement that the Grantee is to use.
- 3.3 The Grantee agrees not to use the Commonwealth Coat of Arms in connection with the Grant or the Activity without the Commonwealth's prior written approval.

3.4 The Grantee must provide the Commonwealth detailed information relating to any event it will conduct in relation or connection to the Activity (including the official opening of the Activity) at least 40 Business Day prior to the proposed date of that event and must implement any changes the Commonwealth requires in writing to the planning and conduct of that event.

4. Notices

- 4.1 Each Party agrees to promptly notify the other Party of anything reasonably likely to adversely affect the undertaking of the Activity, management of the Grant or its performance of any of its other requirements under this Agreement.
- 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

- 5.1 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.
- 6.3 The Grantee agrees not to subcontract any part of the performance of the Activity without the Commonwealth's prior written consent. The Commonwealth may impose any conditions it considers reasonable and appropriate when giving its consent.
- 6.4 The Grantee agrees to remove a subcontractor from the Activity at the reasonable request of the Commonwealth and at no additional cost to the Commonwealth.

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 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 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.
- 9.2 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.
- 9.3 The Parties acknowledge and agree that they each:
 - (a) are registered for GST purposes;
 - (b) have quoted their Australian Business Number to the other; and
 - (c) must notify the other of any changes to the matters covered by this clause.
- 9.4 The Grantee agrees that the Commonwealth will issue it with a recipient created tax invoice for any taxable supply it makes under this Agreement.
- 9.5 The Grantee agrees not to issue tax invoices in respect of any taxable supplies.
- 9.6 If the Grantee is not, or not required to be, registered for GST, then:
 - (a) clauses 9.3(a), 9.4 and 9.5 do not apply; and
 - (b) the Grantee agrees to notify the Commonwealth in writing within 7 days of becoming registered for GST if during the term of the Agreement it becomes, or is required to become, 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 the timeframe specified by the Commonwealth (and if no timeframe is specified, three months) after the Activity Completion Date, the Grantee agrees to provide the Commonwealth with an independently audited financial acquittal report verifying that the Grant has been spent in accordance with this Agreement.
- 10.3 The reports under clause 10.2 must be audited by:
 - (a) a Registered Company Auditor under the *Corporations Act 2001* (Cth); or
 - (b) a certified Practising Accountant; or

- (c) a member of the National Institute of Accountants; or
- (d) a member of the Institute of Chartered Accountants; who is not a principal member, shareholder, officer or employee of the Grantee or a related body corporate.

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 [and any Other Contributions] 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, liaison and review

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 and any Commonwealth review or evaluation of it.

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 If, at any time, a Party reasonably believes that the Activity is unlikely to fully meet the purpose of the Grant, or there are Activity risks that need to be addressed, that Party may provide written notice to the other Party setting out its reasons for that belief and proposing steps that could be taken to better achieve that purpose or address those risks. The Parties agree to work co-operatively to:
- (a) consider, and negotiate in good faith, any change proposed under this clause 13.4; and
 - (b) implement any such change that is agreed by the Parties by executing a variation to this Agreement under clause 8.1.
- 13.5 Except to the extent the Parties agree a variation under clause 8.1, clause 13.4 does not limit any of a Party's other rights under this Agreement.
- 13.6 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);
 - (b) not to do anything which, if done by the Commonwealth, would be a breach of an Australian Privacy Principle;
 - (c) to ensure that any of the Grantee's subcontractors or personnel who deal with Personal Information for the purposes of this Agreement are aware of the requirements of the *Privacy Act 1988* (Cth) and the Grantee's obligations under this clause; and
 - (d) to immediately notify the Commonwealth if the Grantee becomes aware of an actual or possible breach of this clause by the Grantee or any of the Grantee's subcontractors or personnel.
- 14.2 In carrying out the Activity, the Grantee agrees not to send any Personal Information outside Australia without the Commonwealth's prior written approval. The Commonwealth may impose any conditions it considers appropriate when giving its approval.

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 effect and maintain for as long as any obligations remain in connection with this Agreement:
- (a) workers compensation insurance as required by law;
 - (b) adequate and appropriate public liability insurance;

- (c) insurance against any loss or damage to an asset for its full replacement cost including where relevant the costs of demolition and removal of debris and the cost of architects, engineers and other consultants; and
 - (d) any other additional insurance specified in the Grant Details.
- 16.2 The Grantee agrees to provide proof of insurance to the Commonwealth upon request and within the time specified in the 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.
- (d) in addition to clause 19.3.1(a), breached the requirements in subclause 1.3.

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;
- Supplementary Terms 4 (Access/Monitoring/Inspection)
- Supplementary Terms 9 (Child safety)
- Supplementary Terms 13 (Fraud)
- Supplementary Terms 14 (Prohibited Dealings)
- Supplementary Terms 15 (Anti-corruption)
- Supplementary Terms 20 (Compliance with Legislation and policies)
- Supplementary Terms 21 (Work health and safety); 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.
- Date for Practical Completion is as set out in the Capital Works Particulars in Schedule 2.
- **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 and includes any interest earned by the Grantee on that money once the Grant has been paid to the Grantee.
- **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: Capital Works Clauses

1. Definitions

In this Agreement, unless the contrary appears:

Activity means the activity described in the Grant Details and includes the Capital Works, the use of the Capital Works for the Designated Use and the provision of the Reporting Material.

Activity Period means the period commencing on the Activity start date set out in the Grant Details and ending on the Activity Completion Date.

Approval means any licence, permit, consent, approval, determination, certificate or other requirement of any authority, body or other organisation having any jurisdiction in connection with the Capital Works or the carrying out of the Activity or under any applicable statutory requirement, which must be obtained or satisfied to perform the Activity.

Asset means any item of property purchased, leased, created or otherwise brought into existence wholly, or in part, with the use of the Grant, with a value at that time of \$10,000 (inclusive of GST) or more, excluding Activity Material, Intellectual Property Rights and Real Property (including any property once it becomes part of Real Property).

Capital Works means any part of the Activity that comprises construction and building activities and includes the Capital Works specified in the Capital Works Particulars.

Capital Works Particulars means the particulars set out in the Annexure to this Agreement.

Capital Works Site means the site described in the Capital Works Particulars where the Capital Works are to be carried out, and any item or property which is affixed to that site.

Defect means any defect, shrinkage, fault, error or omission in the Capital Works and includes any feature of the Capital Works which does not comply with this Agreement or otherwise makes the Capital Works not fit for the Designated Use.

Designated Use means the use specified in the Capital Works Particulars.

Designated Use Period means the period, specified in the Capital Works Particulars, during which the Site must be used for the Designated Use.

Real Property means the real property listed in the Capital Works Particulars.

Site means the site or sites described in the Capital Works Particulars, any item which is affixed to the site or sites, and any site or sites where the Activity is carried out, and includes the Capital Works Site.

2. Approvals

The Grantee agrees to obtain all Approvals, including those specified in the Capital Works Particulars, necessary to commence and perform the Activity in accordance with this Agreement and must deliver a copy of satisfactory written evidence of each Approval to the Commonwealth by the date(s) specified in the Capital Works Particulars.

- 2.1 If the Grantee does not obtain the necessary Approvals in accordance with clause 2.1 of this Schedule, the Commonwealth may, at its sole discretion:
- (a) withhold payment of any amount of the Grant in accordance with clause 2 of Schedule 1; or
 - (b) terminate this Agreement in accordance with clause 19 of Schedule 1.

3. Commencement

- 3.1 In this clause, **Force Majeure Event** means a circumstance or event which was not contemplated by the Grantee and which could not reasonably have been foreseen by the Grantee at the Activity start date set out in the Grant Details, and is beyond the Grantee's reasonable control, including acts of God, war, terrorism or other hostility, natural or international disaster, fire, explosion, power failure, strike or lockout, but does not include circumstances caused by acts or omissions of the Grantee or its officers, employees, subcontractors or agents.
- 3.2 The Grantee agrees to:
- a) comply with any preconditions to commencing the Activity specified in the Capital Works Particulars; and
 - b) commence the Activity by the date specified in the Capital Works Particulars, unless the Commonwealth agrees otherwise in writing or the Grantee is prevented by a Force Majeure Event.
- 3.3 The Grantee agrees to notify the Commonwealth in writing that it has commenced the Activity within five business days of that commencement.
- 3.4 If the Grantee fails to commence the Activity in accordance with clause 3.2 of this Schedule, the Commonwealth may, at its sole discretion:
- a) give the Grantee notice requiring the Grantee to repay any amount of the Grant that has been paid in accordance with clause 11.2 of Schedule 1;
 - b) withhold payment of any amount of the Grant in accordance with clause 2 of Schedule 1; or
 - c) terminate this Agreement in accordance with clause 19 of Schedule 1.

4. Construction standards

- 4.1 The Grantee agrees to ensure that:
- a) all aspects of the Capital Works are carried out by qualified tradespeople or professionals who:
 - i. use workmanship of a standard consistent with the best Australian industry standards for work of a similar nature; and
 - ii. are registered with the relevant Australian state, territory or national accreditation bodies that regulate the activities of members of that particular trade or profession in each jurisdiction where the Capital Works are carried out;
 - b) all activity relating to the Capital Works is carried out in accordance with all legal requirements and standards applicable to the building, construction or fit-out being undertaken;
 - c) all materials used in the Capital Works comply with any requirements set out in this Agreement and are of merchantable quality, fit for their purpose and consistent with the nature and character of the Capital Works; and
 - d) the Capital Works comply with all relevant standards of Standards Australia.

5. Material variations to the Capital Works

- 5.1 The Grantee agrees not to vary, or enter into any agreement to vary, the Capital Works in any material way without the prior written consent of the Commonwealth.
- 5.2 For the purposes of clause 5.1 of this Schedule, a variation to the Capital Works will be material if it would, or might reasonably be expected to, have an effect on the:
- a) price of the Capital Works or Activity generally;
 - b) budget for the Capital Works or Activity generally;
 - c) milestones or timeframes for completion of the Capital Works or Activity generally;
 - d) fitness of the completed Capital Works for the Designated Use;

- e) Approvals obtained in relation to the Capital Works or Activity generally; or
- f) location of the Capital Works or the Activity generally.

6. Latent Conditions and other Site conditions

- 6.1 In this clause, **Latent Condition** means any ground conditions at the Site where the Activity is to take place, excluding ground conditions resulting from inclement weather, which differ materially from those which should have been anticipated by a prudent, competent and experienced professional.
- 6.2 The Grantee agrees to ensure that:
- a) the Site is suitable for carrying out the Activity; and
 - b) there are no Latent Conditions existing at the Site that may affect the Grantee's ability to perform or complete the Activity in accordance with this Agreement.
- 6.3 If, at any time during the performance of the Activity, a Latent Condition or other condition is discovered at the Site that may affect the performance or completion of the Activity, the Grantee agrees to:
- a) immediately notify the Commonwealth;
 - b) give the Commonwealth any details it reasonably requires as to the condition, its causes, and its anticipated effect on the Activity;
 - c) allow the Commonwealth, and any person the Commonwealth nominates, access to the Site at all reasonable times to inspect and investigate the condition; and
 - d) take all steps necessary to avoid (or, if the condition cannot be avoided, to mitigate) the impacts of the condition on the performance and completion of the Activity.
- 6.4 The Commonwealth may direct the Grantee to vary the Activity to overcome any Latent Condition or other condition at the Site that would or may adversely affect the Grantee's ability to perform or complete the Activity in accordance with this Agreement or otherwise comply with this Agreement. Any such direction does not limit the Commonwealth's rights under clause 6.5 of this Schedule below.
- 6.5 If, in the Commonwealth's reasonable opinion, a condition referred to at clause 6.3 of this Schedule is a Latent Condition:
- a) the Grantee agrees that all steps the Grantee takes (and that any third party takes on the Grantee's behalf) to avoid or mitigate the impacts of the Latent Condition in accordance with clause 6.3(d) of this Schedule are entirely at the Grantee's own risk and expense and will not be paid for using any of the Grant; and
 - b) the Commonwealth may, at any time following the identification of the Latent Condition, terminate this Agreement under clause 19 of Schedule 1 if the Commonwealth considers that:
 - i. the impacts of the Latent Condition cannot be avoided or mitigated cost effectively in a way that will enable the Activity to be completed by the Activity Completion Date and in accordance with this Agreement; or
 - ii. the Grantee failed to avoid or mitigate the impacts of the Latent Condition in accordance with clause 6.3(d) of this Schedule within a reasonable time.
- 6.6 The Commonwealth's termination of this Agreement under clause 6.5(b) of this Schedule does not limit the Grantee's obligations under clause 6.3 of this Schedule.

7. Practical Completion

- 7.1 The Grantee agrees to ensure that the Capital Works achieve practical completion in accordance with clause 7.2 of this Schedule on or before the Date for Practical Completion set out in the Capital Works Particulars.
- 7.2 To achieve practical completion:

- (a) the Capital Works must be:
 - (i) complete and free from Defects, except for those that:
 - A. are of a minor nature;
 - B. it is not reasonably practicable for the Grantee to make good immediately;
 - C. can exist or be made good without significantly inconveniencing users of the site; and
 - D. do not cause any legal or physical impediment to the use and occupation of the Site and the Capital Works for the Designated Use; and
 - (ii) fit for the Designated Use;
- (b) the Grantee must provide the Commonwealth with written certification by a registered and qualified builder, architect or engineer that has inspected the Capital Works on their completion that:
 - (i) the Capital Works meet all the requirements of clause 7.2(a) of this Schedule and all other requirements set out in this Agreement; and
 - (ii) all statutory requirements have been complied with.

8. Defects after Practical Completion

- 8.1 In this clause, **Date of Practical Completion** means the date on which practical completion under clause 7.2 of this Schedule is achieved.
- 8.2 The Grantee agrees to promptly rectify any Defect in the Capital Works, including those which become apparent after the Date of Practical Completion and during the Designated Use Period before the Agreement End Date.

9. Assets

Acquisition and ownership

- 9.1 The Grantee agrees not to use the Grant to acquire or create any Asset, apart from those detailed in the Capital Works Particulars, without obtaining the Commonwealth's prior written approval. The Commonwealth may grant that approval subject to conditions.
- 9.2 The Grantee agrees to ensure that:
 - a) it owns all Assets acquired or created in its own right, unless the Commonwealth gives its prior written consent to the Commonwealth or a third party owning the relevant Asset; and
 - b) if an Asset is owned by a third party, the terms of the arrangement to use the Asset are consistent with the Grantee's responsibilities regarding the Asset in clause 9.3 of this Schedule.

Grantee's responsibilities

- 9.3 Throughout the Activity Period, the Grantee agrees to:
 - a) use each Asset in accordance with this Agreement and for the Designated Use;
 - b) not encumber or dispose of any Asset, or deal with or use any Asset other than in accordance with this clause, without the Commonwealth's prior written approval;
 - c) safeguard all Assets against theft, loss, damage and unauthorised use;
 - d) maintain all Assets in good working order;
 - e) take out and maintain all appropriate insurances for all Assets to their full replacement value, noting any interest of the Commonwealth in the Asset under this Agreement, and provide satisfactory written evidence of this to the Commonwealth when requested;
 - f) maintain registration and licensing of each Asset required by law to be registered or licensed;
 - g) take full responsibility for, and bear all risks relating to, the use or disposal of all Assets; and

- h) if specified in the Capital Works Particulars, maintain an Asset Register in the form and with the details described there, and provide copies of the Asset Register to the Commonwealth when requested.

Sale or disposal of Asset

- 9.4 If the Grantee disposes of an Asset which it owns during the Activity Period, the Grantee agrees to account for the proportion of the Asset's market value that was met by the Grant as part of the Grant, and to use that amount for the Activity.

Loss or damage of Asset

- 9.5 If any Asset owned by the Grantee is lost, damaged or destroyed during the Activity Period, the Grantee agrees:
 - a) to promptly reinstate the Asset, including from the proceeds of the insurance;
 - b) that this clause 9 of this Schedule will apply to the reinstated Asset; and
 - c) to notify the Commonwealth of any surplus insurance proceeds, account for that surplus as part of the Grant and use that amount for the Activity.

End of the Activity

- 9.6 After the Activity Completion Date or the earlier termination of this Agreement, the Commonwealth may, by written notice, require the Grantee to deal with any Asset, other than an Asset owned by a third party, in accordance with the Commonwealth's directions.

10. Real Property**Definition**

- 10.1 In this clause, **Operational Period** means the period commencing on the Activity start date set out in the Grant Details and ending on the Agreement End Date.

Purchase of Real Property

- 10.2 The Grantee must not spend any part of the Grant on any Real Property.

Outgoings

- 10.3 The Grantee agrees to pay all rents, rates, taxes, levies and other outgoings of any nature in relation to the Real Property. The Grantee agrees not to use the Grant to pay rent or other disallowed outgoings set out in the Capital Works Particulars.

Right to undertake Capital Works at the Capital Works Site

- 10.4 Before the Grantee commences the Capital Works, the Grantee agrees to ensure that the Grantee has a legal right or interest acceptable to the Commonwealth that permits the Grantee to occupy and carry out the Capital Works at the Capital Works Site, whether by way of fee simple, lease, agreement to lease, licence or otherwise.
- 10.5 The Grantee agrees to provide the Commonwealth with copies of all relevant documentation regarding its interest in and right to occupy and carry out the Capital Works at the Capital Works Site within 10 business days of a request by the Commonwealth for such documentation.

Grantee's responsibilities

- 10.6 Throughout the Operational Period, the Grantee agrees to:
 - a) hold the Real Property securely and safeguard it against theft, loss, damage or unauthorised use
 - b) maintain the Real Property in good condition;

- c) take out and maintain all appropriate insurances for the Real Property to its full replacement cost and use that insurance to rectify any damage to or destruction of the Real Property. This clause continues to apply to the Real Property once any damage or destruction is rectified. The Grantee agrees to notify the Commonwealth of any surplus from the proceeds of this insurance and to use and account for that surplus as part of the Grant;
- d) effect and maintain any registration and licensing of the Real Property required by law;
- e) be fully responsible for, and bear all risks relating to, the use or disposal of the Real Property; and
- f) if required by the Commonwealth, maintain a Real Property Register in the form and containing the details as set out in the Capital Works Particulars, and provide the Commonwealth with a copy of the Real Property Register on request.

Security

- 10.7 If the Commonwealth requests, the Grantee agrees to take all action necessary to grant the Commonwealth a security, including in the form of a charge or mortgage, over the Real Property on terms acceptable to the Commonwealth.

Dealings

- 10.8 The Grantee agrees to obtain the Commonwealth's prior written consent before:

- a) disposing of any Real Property during the Operational Period; or
- b) ceasing to use any Real Property for the Designated Use.

- 10.9 If the Grantee disposes of any Real Property during the Operational Period, or ceases to use any Real Property for the Designated Use without the prior written consent of the Commonwealth, the Commonwealth may, at its sole discretion:

- a) give the Grantee notice requiring the Grantee to repay all or part of the amount of the Grant that has been paid, as determined by the Commonwealth;
- b) withhold payment of any amount of the Grant in accordance with clause 2 of Schedule 1; or
- c) terminate this Agreement in accordance with clause 19 of Schedule 1.

Use of the Real Property

- 10.10 The Grantee agrees to ensure that:

- a) the Real Property is used for, and is fit to be used for, the Designated Use; and
- b) the Grantee's legal right or interest in the Real Property permits the use of the Real Property for the Designated Use.

Third party interests

- 10.11 If a third party has proprietary or other rights or interests in relation to any Real Property, the Grantee agrees to:

- a) enter into legally binding written agreements under which all such third parties agree to:
 - i. the use of the Capital Works Site to carry out the Capital Works;
 - ii. the use of the Capital Works Site and completed Capital Works for the Designated Use; and
 - iii. the use of any other Real Property for the Activity in accordance with this Agreement;
- b) not do anything that would give any such third party a right to rescind its agreement to any use specified in paragraph (a) above; and
- c) provide the Commonwealth with evidence that the Grantee has complied with this clause within 10 business days of a request by the Commonwealth for such evidence.

11. Purposes Deed

Not applicable

12. Designated Use

- 12.1 The Grantee agrees not to use the Grant to acquire or create any Asset, apart from those detailed in the Capital Works Particulars, without obtaining the Commonwealth's prior written approval. The Commonwealth may grant that approval subject to conditions.
- 12.2 The Grantee agrees to ensure that:
- a) the Capital Works and the Site are used only for the Designated Use throughout the Designated Use Period;
 - b) the Designated Use is provided in accordance with any requirements specified in the Capital Works Particulars, including regarding who provides the Designated Use; and
 - c) the Commonwealth's prior written approval is obtained to any use of the Capital Works or the Site (or both) not in accordance with the specified requirements.
- 12.3 The Parties agree that the repayment provisions set out in clause 10.9 (a) and 12.4 (a) in this Schedule would constitute a genuine and reasonable loss of public utility to the Commonwealth if the Capital Works and the Site are not used for the Designated Use throughout the Designated Use Period.
- 12.4 Subject to clause 12.5 of this Schedule, in addition to any other rights available to the Commonwealth, if the Grantee fails to comply with clause 12.1 of this Schedule, the Commonwealth may, at its sole discretion:
- a) give the Grantee notice requiring the Grantee to repay all or part of the amount of the Grant that has been paid, as determined by the Commonwealth;
 - b) withhold payment of any amount of the Grant in accordance with clause 2 of Schedule 1; or
 - c) terminate this Agreement in accordance with clause 19 of Schedule 1.
- 12.5 The Commonwealth agrees not to rely upon clause 12.4 of this Schedule if the non-compliant use was for a limited time only and the Commonwealth is satisfied that:
- a) the situation did not arise through any substantial failure by the Grantee;
 - b) the Grantee used all reasonable efforts to resolve the situation to the Commonwealth's satisfaction;
 - c) the Grantee complied with all reasonable directions the Commonwealth gave to help resolve the situation; and
 - d) the situation is resolved to the Commonwealth's satisfaction.

13. Activities on Native Title Land

- 13.1 In this clause:

Native Title Land means land that is subject to native title or subject to a native title claim.

Native Title has the same meaning as in the *Native Title Act 1993* (Cth).

- 13.2 In addition to all other necessary Approvals (clause 2 of this Schedule) [and evidence of agreements with any third parties with an interest in the Real Property required by clause 10.11 of this Schedule], the Grantee agrees that, before performing an Activity on Native Title Land, the Grantee will, where required by law, obtain the agreement of any Native Title holders or known claimants in relation to the Native Title Land concerned, including, if appropriate, by entering into an Indigenous Land Use Agreement.

- 13.3 Whether or not there is a legal requirement to obtain the agreement of Native Title holders or known claimants in relation to Native Title Land in order to perform an Activity, the Grantee agrees not to perform any such Activity on the Native Title Land unless the Grantee:
- a) has consulted with the Native Title holders or known claimants about the Activity; and
 - b) is satisfied that the Native Title holders or known claimants understand the nature of the Activity and have had an adequate opportunity to comment.
- 13.4 The Parties acknowledge that, in all cases, it is desirable that the Grantee has the agreement of any Native Title holders or known claimants to the performance of the Activity on Native Title Land.
- 13.5 The Grantee agrees to immediately notify the Commonwealth in writing if the Grantee fails to obtain all necessary Approvals and agreements to perform the Activity on Native Title Land (including, where required by law, agreeing to an Indigenous Land Use Agreement and registering it on the Register of Indigenous Land Use Agreements) within 6 months after the date of this Agreement.
- 13.6 If the Grantee fails to obtain the necessary Approvals and agreements to perform the Activity on Native Title Land within 6 months after the date of this Agreement, the Commonwealth, at its sole discretion, may:
- a) negotiate changes to the Activity to enable the Activity to proceed with any and all necessary Approvals and agreements;
 - b) terminate this Agreement under clause 19 of Schedule 1; or
 - c) by notice, reduce the scope of the Activity.
- 13.7 If the Commonwealth reduces the scope of the Activity, the Grantee agrees that the Commonwealth will not be liable to pay any costs related to activities no longer within scope that are incurred after the date of the notice of reduction.
- 13.8 The Grantee agrees to provide the Commonwealth with a copy of any Indigenous Land Use Agreement entered into for the purposes of this clause 13 of this Schedule within 5 business days of its registration on the Register of Indigenous Land Use Agreements.
- 13.9 The Grantee agrees that, unless otherwise agreed in writing, the Commonwealth is not required to pay the Grant (or any remaining part of the Grant) if the Grantee has not complied with this clause 13 of this Schedule.
- 13.10 The Grantee agrees to obtain and rely on its own advice in relation to Native Title matters.

14. Activities on Land Rights Land

- 14.1 In this clause:

Aboriginal peoples has the same meaning as in the *Native Title Act 1993* (Cth).

Land Rights Land means land which is:

- a) subject to a freehold estate or lease granted or vested under legislation that makes provision for the grant or vesting of such things only to, in, or for the benefit of, Aboriginal peoples or Torres Strait Islanders;
- b) held expressly for the benefit of, or held on trust, or reserved, expressly for the benefit of, Aboriginal peoples or Torres Strait Islanders; or
- c) claimed under legislation referred to above in paragraph (a).

Torres Strait Islander has the same meaning as in the *Native Title Act 1993* (Cth).

- 14.2 In addition to all other necessary Approvals (clause 2 of this Schedule) [and evidence of agreements with any third parties with an interest in the Real Property required by clause 10.11 of this Schedule], the Grantee agrees that, before performing an Activity on Land Rights Land, the Grantee will, where required by law, obtain the necessary approval of any land holding body, traditional owners or known claimants of the Land Rights Land concerned.
- 14.3 Whether or not there is a legal requirement to obtain the agreement of any land holding body, traditional owners or known claimants in relation to Land Rights Land in order to perform an Activity, the Grantee agrees not to perform any such Activity on the Land Rights Land unless the Grantee:
- a) has consulted with the any land holding body, traditional owners or known claimants about the Activity; and
 - b) is satisfied that any such land holding body, traditional owners or known claimants understand the nature of the Activity and have had an adequate opportunity to comment.
- 14.4 The Parties acknowledge that, in all cases, it is desirable that the Grantee has the agreement of any land holding body, traditional owners or known claimants to the performance of the Activity on Land Rights Land.
- 14.5 The Grantee agrees that, unless otherwise agreed in writing, the Commonwealth is not required to pay the Grant (or any remaining part of the Grant) if the Grantee has not complied with this clause 14 of this Schedule.
- 14.6 The Grantee agrees to obtain and rely on its own advice in relation to land rights matters.

15. Environmental obligations

- 15.1 In this clause:

Contamination means the presence in, on or under the land, air or water of a substance (whether solid, liquid, gas, odour, heat, sound, vibration or radiation) at a concentration above the concentration at which the substance is (or should be) normally present in, on or under (respectively) land, air or water in the same locality, being a presence that presents a risk of harm to human health or any other aspect of the Environment, or could otherwise give rise to a risk of non-compliance or breach of any statutory requirements relating to the Environment.

Environment means components of the earth, including:

- a) land, air and water;
- b) any layer of the atmosphere;
- c) any organic or inorganic matter and living organism; and
- d) human-made or modified structure and areas,

and includes interacting natural ecosystems that include components referred to in paragraphs (a) to (d) above.

- 15.2 In performing the Activity, the Grantee agrees to ensure that:

- a) the Grantee complies with all the Grantee's obligations under the *Environment Protection and Biodiversity Conservation Act 1999*, its associated legislative instruments, and all applicable state or territory legislation relating to the Environment;

- b) the Grantee complies with any requirements relating to the Environment set out in the Capital Works Particulars;
 - c) the Grantee does not contaminate or otherwise damage the Environment; and
 - d) the Grantee's officers, employees, subcontractors and agents comply with the requirements set out in this clause.
- 15.3 The Grantee agrees to make good any Contamination or damage to the Environment arising out of or in connection with the Activity, regardless of whether the Grantee has complied with all applicable laws regarding the protection of the Environment.
- 15.4 Unless the Commonwealth specifically notifies the Grantee otherwise or approves in writing, the Grantee agrees not to use the Grant for rectification in accordance with clause 15.3 of this Schedule.
- 15.5 Without detracting from the Grantee's obligations under this Agreement, the Commonwealth may take any action necessary to protect:
- a) the Activity;
 - b) the Site or other property;
 - c) the Environment; or
 - d) third parties,
- from Contamination or damage to the Environment arising out of or in connection with the Activity.
- 15.6 The Commonwealth may recover as a debt due from the Grantee to the Commonwealth all costs, expenses and liabilities that the Commonwealth incurs as a result of taking action under clause 15.5 of this Schedule.

16. Work Health and Safety Accreditation Scheme

- 16.1 Building work undertaken as part of the Activity may be covered by the Work Health and Safety Accreditation Scheme (WHS Accreditation Scheme).
- 16.2 The WHS Accreditation Scheme is established under the Federal Safety Commissioner Act 2022 and specified in the Building and Construction Industry (Improving Productivity) (Accreditation Scheme) Rules 2019.
- 16.3 The WHS Accreditation Scheme applies to building work that is indirectly funded by the Commonwealth if it is carried out under a contract with a value of \$4 million or more (GST inclusive) and the contribution made to the funding of the project that includes building work by the Commonwealth is at least:
- (a) \$6,000,000 (GST inclusive) and represent at least 50% of the total funding; or
 - (b) \$10,000,000 (GST inclusive).
- 16.4 If the WHS Accreditation Scheme applies to the building work undertaken as part of the Activity, the Grantee must:
- a) notify the Office of the Federal Safety Commissioner at the earliest possible opportunity (that is, when approaching the market);

- b) contain a requirement that the builder:
 - i. is accredited under the WHS Accreditation Scheme*;
 - ii. maintains Scheme accreditation for the life of the contract.*
* Paragraph 26(g) of the *Building and Construction Industry (Improving Productivity) (Accreditation Scheme) Rules 2019* outlines provisions applying to joint venture arrangements that include accredited and unaccredited builders.

Annexure A – Capital Works Particulars

These Capital Works Particulars must be read in conjunction with the Commonwealth Standard Grant Agreement.

Item number	Related clause in Schedule 2	Details	Comments
1	1	Capital Works: design, development and construction of three public ferry terminals on the River Derwent, Tasmania at the Capital Works Site	
2	1	Capital Works Site: Ford Parade, Lindisfarne, Tasmania 7015 Brooker Highway, Wilkinson Point, Tasmania 7010 Sandy Bay Road, Sandy Bay, Tasmania 7005	
3	1, 12.1	Designated Use: Derwent Ferry Expansion Project	
4	1	Designated Use Period: Commences on the Date that the Activity starts on, as set out in Part C of the Grant Details, and concludes on the Agreement End Date, which is five years from the date the Commonwealth accepts, to its satisfaction, the Activity Completion Report.	
5	1	Real Property: Derwent Ferry Expansion Project	
6	1	Site: Ford Parade, Lindisfarne, Tasmania 7015 Brooker Highway, Wilkinson Point, Tasmania 7010 Sandy Bay Road, Sandy Bay, Tasmania 7005	
7	2	Approvals required: Relevant Planning and Building Approvals Date evidence of each Approval is required: Terminal at Lindisfarne: 2 January 2025 Terminal at Wilkinson Point: 1 April 2025 Terminal at Sandy Bay 1 July 2025	
8	3.2(a)	Preconditions to commencement: "None"	
9	3.2(b)	Date Activity is to commence by: The Activity starts on the date of execution of this Agreement	
10	7.1	Date for Practical Completion: The Activity (other than the provision of any final reports) ends on 1 July 2026, which is the Activity Completion Date.)	

11	9.1	Assets that may be acquired or created without the Commonwealth's prior approval: None	
12	9.3(h)	<p>Asset Register:</p> <p>The Asset Register contains the following information:</p> <ul style="list-style-type: none"> (a) Asset number; (b) description of Asset; (c) purchase or creation price or total lease cost; (d) date of purchase, creation or lease; (e) if leased, type and term of lease; (f) location of Asset; (g) date on which the Asset was disposed of or written off; (h) disposal method; and (i) if the Asset was partly purchased, created or leased using the Grant, the proportion that was paid for with the Grant. 	
13	10.6	<p>Real Property Register:</p> <p>The Real Property Register contains the following information:</p> <ul style="list-style-type: none"> (a) Real Property description; (b) acquisition, upgrade or creation price or total lease cost; (c) date of acquisition, creation, upgrade or lease; (d) if leased, type and term of lease; (e) location of Real Property; (f) date of disposal; (g) disposal method; and (h) if the Real Property was partly created, acquired or upgraded using the Grant, the proportion that was paid for with the Grant. 	
14	10.3	Disallowed outgoings: None	
15	15	Environmental requirements: "None"	