



GRANT AGREEMENT – LAUNCHVIC LTD

PARTIES

LaunchVic Limited ACN 611 281 737 of Level 36, 121 Exhibition Street, Melbourne VIC 3000 (**LaunchVic**) and

the recipient of the Grant identified in Item 1 of Schedule 1 (**Recipient**)

The Recipient wishes to carry out the Project and has applied for a Grant through the **LaunchVic Round 9 Funding Program** to assist it with the Project. LaunchVic agrees to provide the Grant to the Recipient on the following terms (Agreement):

1. Definitions and Interpretation

1.1 Definitions

The following definitions apply to this agreement:

Bullying or Harassment Complaint has the meaning of these terms set out in LaunchVic's Harassment, Discrimination & Bullying Policy, as made available to the Recipient;

Commencement Date means the date set out in Item 7 of Schedule 1;

Completion Date means the date specified in Item 8 of Schedule 1;

Confidential Information means this Agreement and all information, material and technology disclosed or provided in any form by any party to any other party in connection with this Agreement, save for information that is in or enters the public domain for reasons other than a breach of this Agreement;

Final Report means the final report of the project provided by the Recipient to LaunchVic as set out in Clause 6 to be provided by the due date specified in Schedule 2;

Grant Acquittal means the Statutory Declaration and Final Report required under Clause 6;

Grant means the amount specified in Item 3 of Schedule 1, to be provided to the Recipient in accordance with, and subject to, the terms of this Agreement;

GST has the meaning given in the GST Law;

GST Law means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth);

Indemnified Parties means LaunchVic, any Related Body Corporate of LaunchVic and their respective Personnel and **an Indemnified Party** means any of the Indemnified Parties;

Instalment means the relevant Grant instalment amount set out in Schedule 2 or part thereof;

Key Performance Indicators (KPIs) means the project success metrics set out in Item 5 of Schedule 1;

Law means any law operating in Victoria under common law, equity or statute and including any applicable exchange listing rules, all regulations, by-laws, approvals and relevant requirements of any Commonwealth, State or local authority;

Liability means any debt, obligation, claim, action, cost (including legal costs on an indemnity basis, deductibles or increased premiums), expense, loss (whether direct or indirect), damage, loss, compensation, charge or liability of any kind (including fines or penalties), whether incurred or payable under this Agreement or otherwise at law;

Payment Deliverables means the deliverables required to be delivered by the Recipient to LaunchVic, in accordance with Schedule 2, in successive order and prior to the release of the corresponding Instalment;

Personal Information has the meaning given to it under Privacy Laws;

Personnel means the relevant party's employees, officers, agents, consultants, subcontractors and their respective employees, agents and service providers and for the Recipient includes the Expert-in-Residence engaged by the Recipient in connection with the Project;

Privacy Laws means the laws of the *Privacy Act 1988* (Cth) as amended or replaced from time to time and any relevant industry codes or regulations or guidance provided by the administrator of that Act;

Project means the project generally described in Item 3 of Schedule 1 and incorporates the other commitments and obligations of the Recipient under this Agreement;

Project Activities means the activities specified in Item 4 of Schedule 1 that are designed to meet the Project's Key Performance Indicators (KPIs);

Project Manager means the person engaged or employed by the Recipient who is responsible for managing the running of the Project as specified in Item 6 of Schedule 1 or a replacement as notified to LaunchVic; and

Statutory Declaration means in accordance with the form set out in Schedule 3; and

Tax Invoice has the same meaning as specified in the GST Law.

1.2 Interpretation

In this Agreement unless expressly provided otherwise:

- (a) a reference to this Agreement includes its schedules and any variation, supplement, assignment, novation, substitution or replacement of any of them;
- (b) the singular includes the plural and vice versa;
- (c) includes or including means includes or including without limitation;
- (d) a requirement to do anything includes a requirement to cause or procure that thing to be done and a requirement not to do anything includes a requirement to prevent that thing being done;
- (e) a word that is derived from a defined word has a corresponding meaning; and
- (f) headings and the table of contents are inserted for convenience only and do not affect interpretation of this Agreement.

2. Term

- (a) This Agreement will commence on the date of this Agreement and continue until the Recipient has completed all its obligations under this Agreement as outlined in Schedule 2 to the satisfaction of LaunchVic, unless terminated earlier under clause 13.
- (b) The Recipient must commence the Project on the Commencement Date and complete the Project by the Completion Date.

3. Grant

Subject to receipt of each of the Payment Deliverables and the Recipient otherwise complying with this Agreement, LaunchVic will pay each Instalment within 30 days of LaunchVic approving the corresponding Payment Deliverable.

4. Project

- (a) The Recipient must apply the Grant to the Project Activities, and for no other purpose.
- (b) The Recipient must deliver the Payment Deliverables to the reasonable satisfaction of LaunchVic.
- (c) The Recipient is responsible for the running of the Project including all management, decision making, matters in regards to its Personnel and contracting with third parties as required.
- (d) The Recipient will carry out its obligations under this Agreement, undertake the Project, carry out all publicity with respect to the Project (including the arrangement of any events or functions) in accordance with:
 - (i) the items outlined in Schedule 1;

- (ii) all relevant Laws, regulations and policies;
- (iii) best industry practice; and
- (iv) any reasonable direction given by LaunchVic.

5. Project Manager

The Recipient will ensure that the Project Manager is retained to deliver the Project. The Recipient must notify LaunchVic as soon as reasonably practicable of any proposed change to the Project Manager.

6. Reporting and Acquittal

- (a) The final report (**Final Report**) encompasses all Project Activities since the Commencement Date and must provide details on:
 - (i) **Overview:** a brief overview of the Project.
 - (ii) **Success:** outline the achievement of the KPIs (see Schedule 1 Item 5) and any other achievements during the term of this Agreement.
 - (iii) **Expenditure:** a financial reconciliation, showing actual expenditure on the Project Activities compared with the Grant.
- (b) The Recipient grants to LaunchVic a non-exclusive, royalty free licence to reproduce, publish or otherwise use for non-commercial purposes, the Final Report and any documents and other materials provided by the Recipient to LaunchVic under this Agreement.

7. Accounts and Audit

- (a) The Recipient must keep full and proper records to demonstrate compliance with all aspects of this Agreement. The Recipient must keep LaunchVic fully informed of all aspects of the progress of the Project on request, and will co-operate with LaunchVic and provide LaunchVic with all information reasonably requested by LaunchVic or any third party engaged by LaunchVic to conduct any audit or inspection.
- (b) The Recipient must keep accounting records relating to the Grant and must account for the Grant expenditure separately from other funds and in accordance with generally accepted accounting principles. The accounts for the Grant should, at a minimum, itemise the Recipient's expenditure of the Grant and, in relation to each item, describe the nature of expenditure, the amount and the connection to the Project Activities. The Recipient must keep valid Tax Invoices in respect of all items of expenditure of the Grant.
- (c) Upon request, the Recipient must permit LaunchVic or an auditor appointed by LaunchVic access to accounting records relating to the Project and Grant and where relevant to inspect any Project works, the



Project site or any equipment relating to the Project.

- (d) The Recipient must be provided with at least 1 weeks' notice in writing of any audit or inspection requested by LaunchVic under this clause 7.

8. GST

- (a) Each payment under this Agreement will be increased by an amount equal to any GST payable with respect to the Taxable Supply for which the payment is made provided that with each relevant claim for payment, the Recipient submits a valid Tax Invoice. The total amount of monies paid under this Agreement will be increased to include the total amount of GST payable.
- (b) If required by GST Law, the Recipient must register for GST.
- (c) For the purposes of this Agreement, "Taxable Supply" means the obligations of the Recipient under the terms of this Agreement.

9. Warranties

The Recipient warrants that:

- (a) it will not, and will ensure that its Personnel will not, do anything or engage in any conduct which affects the goodwill or reputation of the Project, the Recipient, LaunchVic or other Stakeholders in the Project;
- (b) it has not received any Bullying or Harrassment Complaints in the previous 12 month period in respect of any of its Personnel involved in the Project; and
- (c) during the term of this Agreement, the Recipient will ensure that:
 - (i) if any Bullying or Harrassment Complaints are received by the Recipient in respect of any of its Personnel involved in the Project during the term of this Agreement, it will immediately notify LaunchVic in which case LaunchVic may elect to enact its rights under clause 13 of this Agreement; and
 - (ii) its operations are carried out in accordance with the purpose of the Project and no changes are made to any arrangements to the Project, or to the description or purpose of the Project without the prior written approval of LaunchVic.

10. Publicity

- (a) The Recipient must not publicise any material relating to the Grant, or use LaunchVic's logo, without consultation with, and prior approval of, LaunchVic.
- (b) LaunchVic reserves the right to publicise the benefits accruing as a result of the provision of this Grant including by issuing a media release regarding the Project.

- (c) LaunchVic may include the name of the Recipient and the amount of the Grant in any materials it publishes under this clause.
- (d) The Recipient must ensure that LaunchVic is acknowledged in the publication of benefits accruing as a result of the provision of the Grant, including attending, participating in or speaking at any engagements and talking about the Project and the Grant, as reasonably requested by LaunchVic.
- (e) The Recipient must give credit and acknowledgment in relation to the Grant and the Project as specified by LaunchVic.

11. Liability & Indemnity

The Recipient indemnifies and holds harmless the Indemnified Parties against all Liability arising from or incidental to:

- (a) any advertisements, promotional material or signage produced or supplied by or on behalf of the Recipient;
- (b) any negligent or wilful act or omission or any advice provided by the Recipient or any of its Personnel in connection in the Project Activities;
- (c) any breach by the Recipient or its Personnel of the provisions of this Agreement (including any of the warranties) or any law or other regulatory requirement; and
- (d) any injury to, or death of, a natural person and any loss of or damage to, the real or personal property of an Indemnified Party or a third party caused or contributed to by the Recipient, or its Personnel,

except to the extent that any Liability is caused or contributed to by the act or omission of an Indemnified Party.

12. Insurance

- (a) The Recipient must effect and maintain, and ensure that any relevant Personnel effect and maintain, at its own cost, all insurances as would be required by a prudent person responsible for the Project Activities including insurance against liability for injury to employees, contractors, volunteers, participants, supporters and the public and in respect of damage to property.
- (b) The Recipient must, at LaunchVic's request, provide LaunchVic with copies of any insurance policies obtained in accordance with clause 12(a).
- (c) The Recipient must observe, perform and comply with all warranties and conditions in all insurance policies that the Recipient obtains in accordance with clause 12(a), and ensure that all premiums are paid when due. LaunchVic may request evidence that premiums are paid at any point during the term of the Agreement.

13. Termination or withholding of payment

If:

- (a) the Recipient breaches this Agreement;
- (b) LaunchVic is of the reasonable opinion that the Project is not proceeding in accordance with this Agreement; or
- (c) the Recipient has engaged in any conduct that affects the goodwill or reputation of the Recipient, the Project, LaunchVic or other stakeholders in the Project

then LaunchVic may in its absolute discretion:

- (d) withhold, any payment due to be made under this Agreement, by written notice to the Recipient;
- (e) require the immediate repayment of the whole or part of any payment made to the Recipient under this Agreement; and/or
- (f) terminate this Agreement immediately by written notice.

14. Confidentiality

A party must not disclose or permit the disclosure of any of the other party's Confidential Information without written permission from that other party, except:

- (a) where required under this Agreement including to a party's legal and financial advisers on a confidential basis;
- (b) where the information disclosed is already in the public domain other than due to a breach of this Agreement; or
- (c) where the disclosure is required by Law.

15. Privacy

The Recipient will:

- (a) comply with all Privacy Laws, the Australian Privacy Principles and any reasonable and applicable LaunchVic policies as notified to the Recipient from time to time, even if it is not otherwise bound by them, including taking all necessary steps to protect personal information as defined under the *Privacy Act 1988* (Cth) in its possession against misuse or loss; and
- (b) not collect, use or disclose any Personal Information for any purpose other than to discharge its obligations under this Agreement.

16. General

- (a) **(Entire agreement)** This Agreement constitutes the entire agreement between the parties and supersedes all communications, negotiations, arrangements and agreements, whether oral or written, between the parties with respect to the subject matter of this Agreement.
- (b) **(Severance)** Each provision of this Agreement will be read as a separate

provision so that if any provision is void or otherwise unenforceable for any reason, that provision will be separated and the remainder read as if the separated provision had never existed.

- (c) **(Waiver)** A waiver by one party of a breach of this Agreement does not constitute a waiver in respect of any other breach of this Agreement, and a party's failure to enforce a provision of this Agreement must not be interpreted to mean that the party no longer regards that provision as binding. A power or right may only be waived in writing, signed by the party to be bound by the waiver.
- (d) **(Variation)** Any variations to this Agreement must be in writing and signed by both parties.
- (e) **(Assignment)** The Recipient must not transfer or assign its rights or novate its obligations under this Agreement without the prior written consent of LaunchVic, such consent not to be unreasonably withheld or delayed.
- (f) **(Counterparts)** This Agreement including any variations may be executed in counterparts. All counterparts together will constitute one instrument.
- (g) **(Negation of employment, partnership & agency)** The Recipient must not represent itself, and must ensure that its employees, partners, agents or sub-contractors do not represent themselves, as being LaunchVic's employees, partners or agents.
- (h) **(No further funding)** Nothing contained in this Agreement is to be construed as creating any obligation, commitment or undertaking by LaunchVic to provide additional or further funding or assistance to the Recipient in relation to the Project, beyond that provided in this Agreement.
- (i) **(Survival)** Each of clauses 6, 7, 10, 11 and 14 will survive the expiration or earlier termination of this Agreement.
- (j) **(Governing Law)** The laws of the State of Victoria will govern this Agreement and the parties submit themselves to the jurisdiction of the courts in the State of Victoria.
- (k) **(Good Faith)** The Recipient must act in good faith and use its best endeavours to comply with the spirit and intention of this Agreement.

The parties agree to be bound by the above terms and conditions.

Executed by LAUNCHVIC LIMITED (ACN 611 281 737) by its authorised representative:

.....
Signature of Witness

.....
Signature of Authorised Representative

.....
Name of Witness

.....
Name of Authorised Representative

Executed by [NAME] (ABN XXX XXX XXX) by its authorised representative:

.....
Signature of Witness

.....
Signature of Authorised Representative

.....
Name of Witness

.....
Name of Authorised Representative

SAMPLE

**Schedule 1– Project Details**

Item 1	Recipient Details	Entity name: ABN: Registered address:
Item 2	Project	
Item 3	Grant	An amount of AUD\$XX,XXX (exclusive of GST) to be paid as instalments in accordance with Schedule 2.
Item 4	Project Activities	
Item 5	Key Performance Indicators (KPIs)	1.
Item 6	Project Manager	
Item 7	Commencement Date	[insert date]
Item 8	Completion Date	[insert date]

**Schedule 2– Payment Deliverables**

Payment Instalments	Amount	Due Date
Milestone 1		
1.1 Evidence that the Expert-in-Residence is confirmed as evidenced by [insert details]	\$20,000 (exclusive of GST)	[insert date]
1.2 A valid Tax Invoice		
Milestone 2		
2.1 Final Report in accordance with Clause 6.	\$5,000 (exclusive of GST)	[insert date]
2.2 Grant Acquittal based on a Statutory Declaration in accordance with Clause 6.		
2.3 A valid Tax Invoice		
Total	\$25,000 (exclusive of GST)	

SAMPLE

Schedule 3 – Statutory Declaration

Statutory Declaration

I, [insert name and address], do hereby solemnly and sincerely declare that:

1. I am an authorised representative of the [insert name of Recipient] (**Recipient**).
2. The Recipient has complied with all of its obligations under the Agreement dated [insert date] (**Agreement**) between the Recipient and LaunchVic Limited on behalf of the State of Victoria.
3. The Recipient has incurred [\$insert amount] of Grant expenditure as at [insert date] in accordance with the terms of the Agreement.
4. The accounts relating to the Grant as attached to this Statutory Declaration are true and correct*.

AND I make this solemn declaration, conscientiously believing the same to be true, and by virtue of the provisions of an Act of the Parliament of Victoria rendering persons making a false declaration punishable for wilful and corrupt perjury.

DECLARED at _____

in the State of Victoria this _____ day of _____ 20____

Signature of person making this declaration
(to be signed in front an authorised witness)

Before me,

Authorised Witness

The authorised witness must print or stamp his or her name, address and title and can be: an Australian lawyer (within the meaning of the *Legal Profession Act 2004*); Justice of the Peace; a senior officer of a council (as defined in the *Local Government Act 1989*); or any other person empowered under Section 107A of the *Evidence (Miscellaneous Provisions) Act 1958*.

*Note: The accounts should, at a minimum, itemise the Grant expenditure and, in relation to each item, describe the nature of expenditure, the amount and the connection to the Project.