



Transport
for NSW

Community Road Safety Grants – round 3

Funding Agreement

Transport for NSW
TfNSW

[# insert name of recipient]
Recipient

The TfNSW contact for this document is **[insert]**

Transport for NSW
18 Lee Street Chippendale NSW 2008
PO Box K659 Haymarket NSW 1240
T 8202 2200 F 8202 2209

www.transport.nsw.gov.au
ABN 18 804 239 602

Contents

1.	Definitions & Interpretation	1
1.1	Definitions	1
1.2	Interpretation	4
1.3	Inconsistency.....	5
2.	Term	5
3.	Project	5
3.1	Recipient's obligations	5
3.2	Evaluation of Project.....	5
4.	Funding	5
4.1	Payment of the Funding	5
4.2	GST.....	7
4.3	Management of Funding.....	8
4.4	Repayment of Funding	9
4.5	Assets	9
5.	Records	10
5.1	Records.....	10
6.	Access to premises and Records	10
7.	Recipient and the Recipient's personnel	11
7.1	Recipient and corporate governance	11
7.2	Legal relationship	12
7.3	Employees	12
8.	Liaison, communications & representatives	12
8.1	Liaison and monitoring	12
8.2	Communications with key stakeholders.....	13
8.3	Coordinator	13
8.4	Recipient's Representative	13
9.	Intellectual Property, Confidential Information & Personal Information	14
9.1	Intellectual Property.....	14
9.2	Confidential Information.....	15
9.3	Protection of Personal Information.....	15
10.	Conflict of Interest	16
11.	Subcontracting	16
12.	Compliance with Laws and policies	16
13.	Acknowledgement and publicity	17

14. Termination	17
14.1 Early Termination by TfNSW	17
14.2 Termination for Breach by the Recipient.....	19
15. Indemnity, Release and Insurance	20
15.1 Indemnity and Release	20
15.2 Insurance	21
16. Dispute Resolution	21
17. Notices	22
17.1 Giving of Notices	22
17.2 Address for Notices	23
18. General	23
18.1 Legally Binding	23
18.2 Governing Law	23
18.3 Amendments	23
18.4 Waiver	24
18.5 Further acts and documents	24
18.6 Consents	24
18.7 Assignment and Novation.....	24
18.8 No representation or reliance	24
18.9 Entire agreement.....	24
18.10 Counterparts.....	25
18.11 Severability.....	25
18.12 Representations	25
18.13 Corporate governance.....	25
18.14 Clauses survive expiration or termination	26
Schedule 1	i

Community Road Safety Grants 2016 Funding Agreement

Agreement made on

2016

Parties Transport for NSW (ABN 18 804 239 602) of 18 Lee Street, Chippendale NSW 2008 (“TfNSW”)

[insert name of recipient] (ABN **[insert recipient’s ABN]**) of **[insert address of recipient]** (“Recipient”)

Recitals

- A. The Recipient has requested that TfNSW provide the Funding so that it can conduct the Project.
- B. TfNSW has agreed to provide the Funding, and the Recipient has agreed to conduct the Project and deal with the Funding, on the terms and conditions of this Agreement.

Operative Terms and Conditions

1. Definitions & Interpretation

1.1 Definitions

In this Agreement, the following terms have the following meaning:

“**Acquittal Certificate**” means the certificate attached in Schedule 2.

“**Advisers**” means a Party’s agents, contractors or advisers engaged in the performance or management of the Project or this Agreement.

“**Agreement**” means this agreement.

“**Agreement Materials**” means any Material prepared as part of, or for the purpose of performing this Agreement and the Project and includes existing Material incorporated into such Material.

“**Approved Auditor**” means a person who is:

- (a) an auditor employed by the Office of the Auditor-General established in New South Wales; and
- (b) registered as a company auditor under the Corporations Act 2001, or a member of the Institute of Chartered Accountants in Australia, or of CPA Australia or the National Institute of Accountants.

“**Asset**” means any item of tangible property, purchased, leased, created or otherwise brought into existence wholly, or in part, with the use of the Funding, which exceeds \$5,000 (including GST) in value but does not include Agreement Materials.

“**Asset Register**” means a register in the form set out in Attachment 1.

“**Auditor-General**” means the office of the Auditor-General of New South Wales.

“Australian Accounting Standards” refers to the standards of that name maintained by the Australian Accounting Standards Board created by section 226 of the *Australian Securities and Investments Commission Act 2001* (Cth).

“Australian Auditing Standards” refers to the standards of that name maintained by the Australian Auditing and Assurance Standards Board created by section 227A of the *Australian Securities and Investments Commission Act 2001* (Cth).

“Business Day” means any day other than a Saturday, Sunday or public holiday in New South Wales.

Confidential Information means information including but not limited to any document or correspondence provided by TfNSW to the Recipient that:

- (a) is by its nature confidential;
- (b) is information designated as confidential by TfNSW from time to time; and
- (c) any other information which by its nature should reasonably be considered to be the confidential information of TfNSW, or which the Recipient knows or ought to know is confidential,

whether or not marked as "Commercial in Confidence", "Proprietary" or "Confidential", and which may be provided in writing, electronically, verbally or otherwise, but does not include any information which:

- (d) the Recipient can demonstrate is or becomes public knowledge other than through a breach of this Agreement;
- (e) is in the lawful possession of the Recipient without restriction in relation to disclosure before the date of receipt of the information from TfNSW;
- (f) was independently developed by the Recipient; or
- (g) is required by Law to be disclosed.

Constitution means in relation to the Recipient its:

- (a) constitution; or
- (b) any instrument or law constituting or defining the constitution of the Recipient or governing the activities of the Recipient or its members.

“Coordinator” means the TfNSW representative named in clause 8.3 or such other person as may be notified in writing by TfNSW to the Recipient from time to time.

“Effective Date” means the date of this Agreement.

“Financial Year” means each period from 1 July to the following 30 June occurring during the Term.

“Funding” means the amount of \$ **[insert value of grant]** (excluding GST) that is payable by TfNSW to the Recipient in accordance with clause 4.1.

“GIPA Act” means the *Government Information (Public Access) Act 2009* (NSW).

“GST” has the meaning given to this term in the GST Act.

“GST Act” means *A New Tax System (Goods and Services Tax) Act 1999* (Cth) as amended from time to time.

“Intellectual Property” means all rights in copyright, patents, registered and unregistered trademarks, design, trade secrets, trade, business or company names or internet domain names, confidential or other proprietary rights, or any other rights to register such rights whether created before or after the date of this Agreement and whether created in Australia or elsewhere.

“Interest” means interest calculated at an interest rate equal to the general interest charge rate for a day pursuant to section 8AAD of the *Tax Administration Act 1953* (Cth), plus 1%, on a daily compounding basis.

“Item” means an item identified in the Schedule.

“Law” or **“Laws”** means any legislation of the Parliament of the Commonwealth of Australia, of any State or Territory of the Commonwealth of Australia or of any other jurisdiction in force at any time and any rule, regulation, ordinance, by-law, statutory instrument, order or notice at any time made under that legislation and, in each case, any consolidations, amendments, re-enactments and replacements.

“Material” includes documents, equipment, software (including source code and object code), goods, information and data stored by any means including all copies and extracts of the same.

“Recipient Generated Income” means any income earned or generated by the Recipient from its use of the Funding, including:

- (a) interest earned from the investment of the Funding; and
- (b) where applicable:
 - (i) the proceeds of insurance paid to the Recipient to replace an Asset exceed the amount actually paid by the Recipient to replace the Asset - the proportion of that excess that reflects the proportion of the total cost of acquiring the Asset that was met by the Funding; and
 - (ii) the proportion of any income received by the Recipient as a result of its use of an Asset that reflects the proportion of the total cost of acquiring the Asset that was met by the Funding.

“Party” means a party to this Agreement.

“Personal Information” means information or an opinion (including information or an opinion forming part of a database and whether or not recorded in a material form), about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion.

“Project” means the project described in Items 1 and 2 of the Schedule and all works and things relating to the performance and delivery of that project.

“Qualified Accountant” means a person who is a member of the Institute of Chartered Accountants in Australia, or of CPA Australia or the National Institute of Accountants.

“**Schedule**” means Schedule 1 and Schedule 2 to this Agreement.

“**Term**” means the period in clause 2.

“**TfNSW Materials**” means any documentation, information or Material supplied by TfNSW to the Recipient by whatever means and includes but is not limited to the Confidential Information.

1.2 Interpretation

In this Agreement:

(a) headings are for convenience only and do not affect interpretation;

and unless the context indicates a contrary intention:

(b) an obligation or liability assumed by, or a right conferred on, 2 or more persons binds or benefits them jointly and severally;

(c) “**person**” includes an individual, the estate of an individual, a corporation, an authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust;

(d) a reference to a Party includes that Party’s personal representatives, executors, administrators, successors, substitutes (including persons taking by novation) and permitted assigns;

(e) a reference to a document (including this Agreement) is to that document as varied, novated, ratified or replaced from time to time;

(f) a reference to a statute or statutory provision includes a statutory modification or re-enactment of it or a statutory provision substituted for it, and each ordinance, by-law, regulation, rule and statutory instrument (however described) issued under it;

(g) a word importing the singular includes the plural (and vice-versa), and a word indicating a gender includes every other gender;

(h) a reference to a Party, clause, paragraph, schedule or annexure is a reference to a Party, clause, paragraph, schedule or annexure to this Agreement;

(i) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;

(j) “**includes**” in any form is not a word of limitation, and a list of examples is not limited to those items or to items of a similar kind;

(k) a reference to “**\$**” or “**dollar**” is a reference to Australian currency;

(l) all monetary amounts are exclusive of GST, unless otherwise stipulated; and

(m) no terms or provision of this Agreement shall be construed against a Party on the basis that that the Agreement or the term or provision was put forward or drafted by that Party.

1.3 Inconsistency

- (a) This Agreement comprises:
 - (i) these terms and conditions;
 - (ii) the Schedule; and
 - (iii) other documents including those incorporated by reference, if any.
- (b) To the extent of any conflict or inconsistency between them the documents referred to in this clause 1.3 will be given precedence in the order they are listed in this clause 1.3.

2. Term

This Agreement commences on the Effective Date and expires on 30 June 2017 unless terminated earlier in accordance with its terms.

3. Project

3.1 Recipient's obligations

- (a) The Recipient must deliver the Project:
 - (i) in accordance with this Agreement;
 - (ii) diligently, effectively and to a high professional standard; and
 - (iii) in good faith so as to meet all Project milestones and timeframes, and any other performance requirements for the Project specified in each of the Items of the Schedule.

3.2 Evaluation of Project

- (b) TfNSW will evaluate the performance of the Project using the criteria set out in Item 3 of the Schedule.
- (c) The Recipient agrees to:
 - (i) provide all reasonable assistance required by TfNSW;
 - (ii) respond to all reasonable requests made by TfNSW; and
 - (iii) provide any information TfNSW reasonably requires,

in relation to conducting a review and evaluation of the Project and the Recipient's performance under this Agreement.

4. Funding

4.1 Payment of the Funding

- (a) Subject to clauses 4.1(d), 4.1(e) and the performance of the Project by the Recipient in accordance with this Agreement, TfNSW will pay the Recipient the

Funding on the basis and at the times or in the circumstances specified in the Schedule and in accordance with this clause 4.

- (b) The Recipient must prepare and submit invoices to TfNSW:
 - (i) in the form agreed by the parties or, failing agreement, as required by TfNSW;
 - (ii) for the amounts payable under clause 4.1(a);
 - (iii) following the occurrence or the events, within the period of time, or on the dates, set out in Item 2B of the Schedule;
 - (iv) itemising the Funding payable; and
 - (v) containing such further details and documentation as are required by the TfNSW from time to time.
- (c) All claims for payment of Funding must be addressed to TfNSW and must refer to the contract number on the cover page of this Agreement.
- (d) It is a condition precedent to the Recipient's right to submit a claim for payment of Funding under this clause 4 that the Recipient:
 - (i) provide to TfNSW copies of any document, drawing or information reasonably required by TfNSW;
 - (ii) has an ABN (and immediately notifies TfNSW if the Recipient ceases to be registered with an ABN);
 - (iii) correctly quotes its ABN on all documentation it provides to TfNSW;
 - (iv) supplies proof of its GST status, if requested by TfNSW; and
 - (v) immediately notifies TfNSW of any changes to the GST status of the Recipient.
- (e) TfNSW may withhold or suspend any payment of the Funding in whole or in part if and for so long as:
 - (i) the Recipient has not performed any obligations:
 - A. that should have been performed under this Agreement; or
 - B. in accordance with this Agreement;
 - (ii) the Project does not comply, in any manner, with this Agreement; or
 - (iii) there is an outstanding amount due or properly claimed to be due by the Recipient to TfNSW under this Agreement.
- (f) If TfNSW exercises its rights under clause 4.1(e), the Recipient must continue to perform its obligations under this Agreement, unless otherwise agreed.

- (g) The Recipient acknowledges and agrees that:
 - (i) the Funding must only be used by the Recipient in accordance with this Agreement and to conduct the Project;
 - (ii) TfNSW is dependent for the Funding on budget allocations by the Governments of the State of New South Wales;
 - (iii) changes to budget allocations may result in changes to the Funding and the Project, or early termination of this Agreement; and
 - (iv) the Recipient will not claim any compensation or damages from TfNSW for any revocation, non-renewal or variation arising as a result of changes to budget allocations referred to in this clause 4.1(g).
- (h) The Recipient must not incur any additional costs in connection with this Agreement or the Project and acknowledges that if any additional costs are incurred they will be the sole responsibility of the Recipient.
- (i) If the Project has not completed before the end of the Term set out in clause 2 (or any other date agreed by the parties in writing), the remaining Funding is to be returned in full by the Recipient to TfNSW.
- (j) In accepting funds from TfNSW the Recipient acknowledges that TfNSW does not assume any legal obligation under, out of or in connection with the Project.
- (k) In exercising any of its rights under this clause 4, TfNSW will not act unreasonably.

4.2 GST

- (a) Terms used in this clause 4.2 which are not defined in this Agreement, but which are defined in the GST Act, have the meanings given in the GST Act.
- (b) If GST is payable by the Recipient in relation to a supply made under this Agreement, TfNSW will pay the Recipient an additional amount equal to that GST (**GST Amount**). The GST Amount will be paid at the same time TfNSW pays the Funding.
- (c) If paragraph (b) applies, the invoice issued by the Recipient to TfNSW under clause 4.1(b) of this Agreement must be in the form of a tax invoice.
- (d) If the GST payable by the Recipient in relation to a supply made under this Agreement varies from the GST Amount recovered from TfNSW for any reason, then:
 - (i) if the GST Amount is greater than the Recipients GST liability, the Recipient will repay TfNSW the difference; or
 - (ii) if the GST Amount is less than the Recipients GST liability, TfNSW will pay the Recipient an additional amount to cover the difference.

Any payment for a variance arising from an adjustment event must be accompanied by an adjustment note provided to TfNSW by the Recipient.

- (e) Each Party represents and warrants that it is registered for GST at the date of this Agreement and a Party will immediately notify the other Party of any change to its GST status.
- (f) Other than GST, the Recipient must pay all taxes, duties and charges payable in connection with the Funding, the conduct of the Project and this Agreement.

4.3 Management of Funding

- (a) The Funding must be spent by the Recipient only:
 - (i) for the Project; and
 - (ii) in accordance with this Agreement.
- (b) The Recipient must:
 - (i) ensure that the Funding is held in an account in the Recipient's name, and which the Recipient solely controls, with an authorised deposit-taking institution authorised under the *Banking Act 1959* (Cth) to carry on banking business in Australia;
 - (ii) identify the receipt and expenditure of the Funding separately within the Recipient's accounting Records so that at all times the Funding is identifiable and ascertainable;
 - (iii) keep financial accounts and Records relating to the Project so as to enable:
 - (A) all receipts and payments related to the Project to be identified in the Recipient's accounts and reported in accordance with this Agreement;
 - (B) unless notified by TfNSW, the preparation of financial statements in accordance with Australian Accounting Standards including:
 - i. an income and expenditure statement for the Financial Year(s) to date; and
 - ii. a schedule of the Assets acquired, sold, written-off or otherwise disposed of during the Financial Year(s) to date; and
 - (C) the audit of those Records in accordance with Australian Auditing Standards
- (c) The Recipient must do all things necessary to ensure that all payments from the Funding that the Recipient makes to third parties are correctly made and properly authorised and that the Recipient maintains proper and diligent control over the incurring of all liabilities.
- (d) TfNSW is not responsible for the provision of any money or resources in excess of the Funding. The Recipient accepts responsibility for the provision of any additional funds or resources which may be required to complete the Project.

4.4 Repayment of Funding

(a) If, at any time during the Term of this Agreement, TfNSW determines that:

- (i) there remains an amount of Funding in the account referred to in clause 4.3(c)(i) that has not been spent or legally committed for expenditure in accordance with this Agreement; or
- (ii) any of the Funding has not been spent in accordance with this Agreement;

then at TfNSW's discretion:

- (iii) the relevant amount must be refunded by the Recipient to TfNSW within 30 Business Days of receipt of a written notice from TfNSW requiring the relevant amount to be refunded;
 - (iv) the relevant amount must otherwise be dealt with as directed in writing by TfNSW; or
 - (v) TfNSW may determine to reduce further payments of the Funding to the Recipient by and on account of the relevant amount.
- (b) If at the completion of the Term the Recipient still holds an amount of the Funding which has not been legally committed for expenditure in accordance with this Agreement at that time, TfNSW may:
- (i) direct the Recipient in writing that the relevant amount must be used for an alternative purpose that is acceptable to TfNSW, in which case the Recipient must only use the relevant amount in accordance with such TfNSW direction; or
 - (ii) give a written notice to the Recipient that requires the Recipient to refund such amount to TfNSW, in which case the relevant amount must be refunded by the Recipient within 30 Business Days of such written notice being received.
- (c) Where TfNSW considers (acting reasonably) that the Project (or any part of the Project) is unable to be performed by the Recipient in accordance with this Agreement, the Funding relating to the Project (or part of the Project) must:
- (i) be repaid to TfNSW upon demand; or
 - (ii) used in such other manner as TfNSW may direct in its absolute discretion.

4.5 Assets

The Recipient must not use the Funding to acquire any Asset without TfNSW's prior written approval. In the event that TfNSW gives approval for the Recipient to acquire an Asset using the Funding, TfNSW may make its approval subject to such terms and conditions as it considers appropriate.

The Recipient must maintain an Asset Register for each Asset purchased using the Funding.

5. Records and Reports

5.1 Records

- (a) The Recipient must keep full and accurate accounts and records of the conduct of the Project including, without limitation, progress against the any milestones and timeframes, the receipt and use of Funding, the Recipient's financial contribution to the Project (if any), the acquisition of Assets and the creation of Intellectual Property Rights in Agreement Material.
- (b) Records and accounts maintained under clause 5.1(a) must be retained by the Recipient for a period of no less than 7 years after expiration or termination of this Agreement.

5.2 Reports

- (a) The Recipient will provide TfNSW with:
 - (i) a financial statement of income and expenditure in relation to the Project certified as true and correct by a duly authorised employee or officer of the Recipient within one month of completion of the Project;
 - (ii) an Acquittal Certificate in the form attached as Schedule 2 to this Agreement, within one month of completion of the Project; and
 - (iii) a (brief) written report on the achievements of the Project against agreed objectives and/or performance indicators within one month of completion of the Project.
- (b) It is an essential term of this Agreement that within 3 days of receiving a written request by TfNSW, the Recipient must provide TfNSW with immediate access to information referred to in s. 121(1) of the GIPA Act (but excluding information referred to in s. 121(2)) contained in records held by the Recipient at the Recipient's expense and in such medium as TfNSW may reasonably request. TfNSW will consult with the Recipient before releasing any information received from the Recipient as required by s. 54 of the GIPA Act.

6. Access to premises and Records

- (a) The Recipient must give the Auditor-General, the Privacy Commissioner, Information Commissioner and persons authorised by TfNSW (referred to in this clause 6 collectively as '**those permitted**') access to premises at which Records and Material associated with this Agreement are stored or work under the Project is undertaken at all reasonable times and allow those permitted to inspect and copy Records and Material, in the Recipient's possession or control, for purposes associated with this Agreement or any review of performance under this Agreement. The Recipient must also give those permitted access to any Assets, wherever they may be located, and reasonable access to the Recipient's employees, for the same purposes.
- (b) The Recipient must provide all reasonable assistance requested by those permitted when they exercise the rights under clause 6(a) including:

- (i) making available all information, documentation and data, in any medium, required by TfNSW at the Recipient's registered office or (with TfNSW's consent) the Recipient's principal place of business or other place, and
 - (ii) making available the Recipient's employees, officers, volunteers and Advisors who must provide access to the Recipient's computer Records and copies of documentation, including computer discs or other forms of electronic data.
- (c) The rights referred to in clause 6(a) are subject to:
- (i) the provision of reasonable prior notice by those permitted (except where they believe that there is an actual or apprehended breach of the Law); and
 - (ii) the Recipient's reasonable security procedures.
- (d) The requirement for access specified in clause 6(a) does not in any way reduce the Recipient's responsibility to perform the Recipient's obligations in accordance with this Agreement.
- (e) The Recipient must ensure that any contract or subcontract entered into for the purpose of the Project or this Agreement contains an equivalent clause allowing those permitted to have the access specified in this clause 6.
- (f) This clause 6 applies during the Term and will continue to apply for a period of 7 years from the date of termination or expiration of this Agreement.

7. Recipient and the Recipient's personnel

7.1 Recipient and corporate governance

- (a) The Recipient represents and warrants to TfNSW that:
- (i) it is duly incorporated and validly existing under the *Corporations Act 2001* (Cth) or the *Associations Incorporation Act 2009* (NSW) as applicable;
 - (ii) it has the legal right and power to enter into this agreement;
 - (iii) it has entered into this agreement in its own right and not as trustee of any trust or as an agent on behalf of any other entity;
 - (iv) the execution, delivery and performance of this Agreement by it has been duly and validly authorised by all necessary corporate action and this Agreement is a valid and binding agreement, enforceable in accordance with its terms subject to the laws of insolvency; and
 - (v) it has full power and authority to perform all of its obligations under this Agreement.
- (b) On or before the date of this Agreement, and thereafter upon written request by TfNSW at any time, the Recipient must:
- (i) provide TfNSW a current copy of its constitution, rules or constituent documents; and

- (ii) any other information requested by TfNSW concerning the structure, management or operations of the Recipient which may be relevant to the Funding, the Project or this Agreement.
- (c) The Recipient must:
 - (i) immediately inform TfNSW whenever there is a change in its constitution, rules or constituent documents, registration status, structure, management or operations which could reasonably be expected to affect its eligibility for the Funding or have an adverse effect on the Recipient's ability to deliver the Project or comply with its obligations under this Agreement; and
 - (ii) at all times ensure that its affairs are conducted strictly in accordance with its constitution, rules or constituent documents.

7.2 Legal relationship

- (a) The Recipient, its employees, officers, volunteers, partners and Advisers will not, by virtue of this Agreement, be or for any purpose be deemed to be TfNSW's legal employees, partners or agents.
- (b) The Recipient must not, and must ensure that its employees, officers, volunteers, partners and Advisers do not, represent the Recipient or themselves as being TfNSW's employees, officers, volunteers, partners or Advisers or as otherwise able to bind or represent TfNSW.

7.3 Employees

- (c) The Recipient is responsible for all of its employees and TfNSW accepts no responsibility, and shall not be liable in any way, for any claims made against the Recipient or its employees which may arise as a result of the activities conducted by the Recipient including, without limitation, the Recipient delivering the Project.

8. Liaison, communications & representatives

8.1 Liaison and monitoring

- (a) The Recipient must:
 - (i) liaise with and provide information to TfNSW as reasonably required by TfNSW from time to time; and
 - (ii) comply with any and all of TfNSW's reasonable requests, directions, or monitoring requirements.
- (b) TfNSW may nominate, from time to time, a person within TfNSW who has authority to liaise with the Recipient, receive and sign notices and written communications for TfNSW under this Agreement and give any request or direction in relation to the Project or this Agreement.
- (c) The Recipient may nominate, from time to time, a person who has authority to liaise with TfNSW, receive and sign notices and written communications for the Recipient under this Agreement and accept any request or direction in relation to the Project or this Agreement.

- (d) At the date of this Agreement, the persons referred to in clauses 8.1(b) and 8.1(c) are the persons specified in clauses 8.3 and 8.4.

8.2 Communications with key stakeholders

The Recipient must ensure that it develops and implements a robust and effective communications procedure that achieves, without limitation, all the requirements of Item 4 of the Schedule.

8.3 Coordinator

- (a) For the purposes of this Agreement, as at the Effective Date the nominated TfNSW officer (**Coordinator**) who will be responsible for performing the functions specified in clause 8.1(b) is:

Name:	
Position:	
Address:	
Telephone:	
Facsimile:	
Email:	

- (b) Without limitation, the Recipient acknowledges and agrees that:
- (i) TfNSW has appointed the Coordinator to liaise with the Recipient concerning the implementation and administration of the Project and this Agreement;
 - (ii) it will regularly liaise with, and report to, the Coordinator in respect of the Project and this Agreement and will cooperate with the Coordinator; and
 - (iii) it will provide the opportunity for the Coordinator (or such other representative of TfNSW that might be nominated from time to time) to attend any board or committee meetings, and to participate in discussions relating to the Project (or any of the Project) and to observe the Recipient's delivery of the Project (or any part of the Project), even if such discussions or meetings relate to an aspect of the Project that is not being delivered using the Funding.
- (c) TfNSW may change the identity of the Coordinator by written notice to the Recipient setting out the details specified in clause 8.3(a) in relation to the incoming coordinator.

8.4 Recipient's Representative

- (a) For the purposes of this Agreement, as at the Effective Date the nominated representative of the Recipient who will be responsible for performing the functions specified in clause 8.1(c) is (**Recipient's Representative**):

Name:	
-------	--

Position:	
Address:	
Telephone:	
Facsimile:	
Email:	

- (b) The Recipient may change the identity of the Recipient's Representative by written notice to TfNSW setting out the details specified in clause 8.4(a) in relation to the incoming representative.

9. Intellectual Property, Confidential Information & Personal Information

9.1 Intellectual Property

- (a) Copyright (including future copyright) in all Agreement Material vests in the Recipient or is otherwise hereby assigned by TfNSW to the Recipient. Title to, and Intellectual Property in, all Agreement Material shall, on being created, written or otherwise brought into existence, vest or otherwise be assigned or transferred to the Recipient, without the need for further assurance.
- (b) The Recipient grants to TfNSW a non-exclusive, perpetual, royalty-free, irrevocable, transferable licence (which includes the right to sub-license to third parties) to exercise Intellectual Property in the Agreement Material in connection with the Project or any other activities of TfNSW.
- (c) Ownership of all TfNSW Materials, including Intellectual Property rights in that material remains vested at all times in TfNSW.
- (d) TfNSW grants to the Recipient a non-exclusive, royalty free licence to use the TfNSW Materials during the Term solely for the purpose of the Project and performing the Recipient's obligations under this Agreement.
- (e) The Recipient must hold, or obtain, consents from all authors of Agreement Material for the use and adaptation of the Agreement Material by the Recipient or TfNSW, without restriction and without any requirement to attribute the Agreement Material to its authors.
- (f) The Recipient represents and warrants that:
- (i) it has all appropriate licences of, or title to, all Intellectual Property that is required by it for the purpose of its obligations under this Agreement; and
 - (ii) it has authority to assign or license (as the case may be) all Intellectual Property rights granted to TfNSW under this Agreement.
- (g) The Recipient accepts all responsibility for securing and protecting the TfNSW Materials and the Agreement Materials. The Recipient must ensure that the

TfNSW Materials and the Agreement Materials are only used, copied, supplied or reproduced for the purposes of this Agreement unless it has obtained the prior written approval of TfNSW to do otherwise. Any such approval may be given on any terms or conditions TfNSW considers appropriate. Upon expiration or termination of this Agreement, the Recipient must as soon as practicable return to TfNSW the TfNSW Materials and the Agreement Materials.

- (h) The Recipient must execute all documents and do all acts and things required, at its cost (unless otherwise agreed), for the purposes of giving effect to the provisions of this Agreement dealing with Intellectual Property.

9.2 Confidential Information

- (a) The Recipient:
 - (i) must not copy, reproduce, disclose, use or otherwise deal with any Confidential Information without the prior written consent of TfNSW;
 - (ii) will ensure that the recipient of any Confidential Information disclosed in accordance with clause 9.2(a)(i) (**Permitted Recipient**) is aware of the confidentiality requirements of this Agreement and is advised that he, she or it is strictly forbidden from disclosing the Confidential Information or from using the Confidential Information other than as permitted by this Agreement; and
 - (iii) upon expiration or termination of this Agreement, or at TfNSW's request, must as soon as practicable return the Confidential Information to TfNSW.
- (b) At its sole discretion and at any time, TfNSW may require the Recipient to arrange for a Permitted Recipient to execute a confidentiality deed in the form that is acceptable to TfNSW relating to the non-disclosure and use of Confidential Information and the Recipient must promptly arrange for such deed to be executed and provided to TfNSW.
- (c) The provisions of this clause 9.2 survive termination or expiration of this Agreement.

9.3 Protection of Personal Information

- (a) Without limiting any obligation that the Recipient has under any applicable privacy Laws, where the Recipient has access to Personal Information in order to fulfil its obligations under this Agreement, it must:
 - (i) where the Recipient is responsible for holding the Personal Information, ensure that the Personal Information is protected against loss and against unauthorised access, use, modification or disclosure and against other misuse;
 - (ii) where collecting Personal Information on behalf of TfNSW, comply with the *Privacy and Personal Information Protection Act 1998* (NSW) as if it were TfNSW;
 - (iii) not use, access or disclose Personal Information other than for the purposes of the Agreement except with the prior written approval of TfNSW;

- (iv) ensure that its officers, employees, agents and subcontractors comply with the Recipient's obligations under this clause 9.3 including, when requested by TfNSW, requiring those officers, employees, agents and subcontractors to promptly sign a suitable privacy deed relating to Personal Information. The Recipient must promptly arrange for such deed to be executed and provided to TfNSW;
 - (v) comply with such other privacy and security measures or directions as TfNSW reasonably advises the Recipient in writing from time to time, including directions to return or destroy the Personal Information;
 - (vi) immediately notify TfNSW upon becoming aware of any breach of this clause 9.3; and
 - (vii) ensure that its subcontracts contain the same or equivalent obligations as are set out in this clause 9.3.
- (b) The provisions of this clause 9.3 survive termination or expiration of this Agreement.

10. Conflict of Interest

The Recipient warrants that at the date of this Agreement, no conflict of interest exists or is likely to arise in relation to execution of this Agreement or its subject matter. The Recipient will immediately provide written notice to TfNSW upon becoming aware of the existence or possibility of a conflict of interest and the Recipient agrees to comply with TfNSW's reasonable directions to appropriately manage the conflict of interest, within the timeframe stipulated by TfNSW in writing.

11. Subcontracting

- (a) The Recipient must not, without TfNSW's prior written approval, subcontract the performance of the Project or any obligations under this Agreement. In giving written approval, TfNSW may impose such terms and conditions as TfNSW thinks fit.
- (b) The Recipient is fully responsible for the performance of all of its obligations under this Agreement, even though it may have subcontracted any of them. Despite any approval given by TfNSW, the Recipient is responsible for ensuring the suitability of a subcontractor for the work proposed to be carried out and for ensuring that such work meets the requirements of this Agreement.
- (c) Prior to any subcontractor or any employee or agent of the subcontractor commencing work in respect of the Project, the Recipient must obtain from that person, and provide to TfNSW, a written assignment (in a form acceptable to TfNSW) from the person to TfNSW of the Intellectual Property created as a result of the person performing that work.

12. Compliance with Laws and policies

The Recipient must, in carrying out its obligations under this Agreement and delivering the Project, comply with:

- (a) all relevant Laws, including the *Disability Services Act 1993* (NSW);

- (b) all applicable codes of conduct and policies that are relevant to the Project and this Agreement, including TfNSW policies;
- (c) any applicable guidelines and quality assurance standards; and
- (d) other requirements as TfNSW may reasonably require from time to time.

13. Acknowledgement and publicity

- (a) The Recipient must obtain TfNSW's prior written approval to each public announcement or publication the Recipient makes in respect of the activities of the Recipient under this Agreement or which mentions the Project, the Funding, TfNSW or uses TfNSW's name or logo. TfNSW may give written pre-approval in respect of announcements and publications (including as to how TfNSW's name or logo is to be used) and in giving such written approval, TfNSW may impose such terms and conditions as TfNSW thinks fit.
- (b) TfNSW reserves the right to publicise and report on the awarding of the Funding to the Recipient and may do this by including in media releases, general announcements about the Funding and in annual reports the Recipient's name, the amount of the Funding given to the Recipient and the title and a brief description of the Project.
- (c) Where use of the TfNSW name or logo is authorised in accordance with this Agreement, use of the TfNSW name or logo must be in accordance with the TfNSW Usage Guide and any other requirements prescribed by TfNSW in its absolute discretion from time to time.
- (d) Subject to prior written approval to do so and the terms of the Agreement, the Recipient acknowledges that, in respect of the Project and this Agreement, it may be required to:
 - (i) acknowledge the support of TfNSW in any public event, media release or media coverage; and
 - (ii) include an acknowledgement in a form acceptable to TfNSW in all documents, brochures, books, articles, newsletters and advertising.
- (e) The provisions of this clause 13 survive termination or expiration of this Agreement.

14. Termination

14.1 Early Termination by TfNSW

- (a) TfNSW may, at any time by written notice to the Recipient, terminate this Agreement in whole or reduce the scope of this Agreement without prejudice to the rights, liabilities, or obligations of either Party accruing prior to the date of termination. If this Agreement is terminated or reduced in scope TfNSW will only be liable for:
 - (i) subject to clause 14.1(c), payments under the payment provisions of this Agreement; and

- (ii) subject to clauses 14.1(d), 14.1(e) and 14.1(f), any reasonable costs incurred by the Recipient and directly attributable to the termination of this Agreement or reduction in scope of the Agreement.
- (b) Upon receipt of a notice of termination or reduction in scope the Recipient must:
 - (i) cease or reduce the performance of the Recipient's obligations under this Agreement in accordance with the notice;
 - (ii) immediately do everything possible to mitigate all losses, costs, and expenses, arising from the termination or reduction in scope contained in the notice; and
 - (iii) either:
 - (A) immediately return any uncommitted or unspent Funding in accordance with clause 14.1(c)(ii); or
 - (B) deal with any uncommitted or unspent Funding as TfNSW may direct in writing in its absolute discretion.
- (c) Where TfNSW terminates this Agreement under clause 14.1(a) TfNSW:
 - (i) will not be obliged to pay to the Recipient any outstanding amount of the Funding except to the extent that those monies have already been legally committed for expenditure by the Recipient in accordance with this Agreement and are not otherwise payable by the Recipient as a current liability (written evidence of which must be provided to TfNSW) as at the date on which the notice of termination is received by the Recipient; and
 - (ii) will be entitled to recover from the Recipient any part of the Funding which:
 - (A) has not been legally committed for expenditure by the Recipient in accordance with this Agreement and is not otherwise payable by the Recipient as a current liability as at the date on which the notice of termination is received by the Recipient; or
 - (B) has not, in TfNSW's reasonable opinion, been expended by the Recipient in accordance with this Agreement;

and all such amounts will, without prejudice to any other rights available to TfNSW under this Agreement or at Law or in equity, be regarded as a liquidated debt due to TfNSW capable of being recovered as such in any court of competent jurisdiction.
- (d) If there is a reduction in the scope of the Recipient's obligations under this Agreement, TfNSW's liability to pay any part of the Funding will, in the absence of agreement to the contrary, abate proportionately to the reduction in the obligations under this Agreement.
- (e) TfNSW's liability to pay any compensation under or in relation to this clause 14.1 is subject to:
 - (i) the Recipient's strict compliance with this clause 14.1; and

- (ii) the Recipient's substantiation of any amount claimed under clause 14.1(a)(ii).
- (f) TfNSW will not be liable to pay compensation for loss of prospective profits for a termination or reduction in scope under this clause 14.1 or loss of any benefits that would have been conferred on the Recipient had the termination or reduction not occurred.

14.2 Termination for Breach by the Recipient

- (a) If:
 - (i) the Recipient fails to provide the Project to a satisfactory standard or fails to fulfil, or is in breach of any of its obligations under this Agreement, and does not rectify the omission or breach within 20 Business Days of receiving a notice in writing from TfNSW to do so;
 - (ii) the Recipient is unable to pay all of its debts as and when they become due and payable or compounds with its creditors or assigns any of its assets for the benefit of creditors;
 - (iii) proceedings are initiated with a view to obtaining an order for the Recipient's winding up or a resolution is passed for the winding up of the Recipient;
 - (iv) the Recipient has a receiver or receiver and manager or administrator or liquidator or provisional liquidator appointed or if a petition is presented for the appointment of a provisional liquidator;
 - (v) the Recipient or any member of the Board of Directors or Committee of the Recipient is convicted of any offence involving fraud or dishonesty (whether or not that person is imprisoned), or any offence for which a term of imprisonment is imposed or brings the Recipient into disrepute;
 - (vi) in relation to this Agreement, the Recipient breaches any Law;
 - (vii) TfNSW is satisfied that any statement made in the Recipient's application for Funding is incorrect, incomplete, false or misleading in a way which would have affected the original decision to approve the Funding;
 - (viii) notice is served on the Recipient or proceedings are taken to cancel the Recipient's incorporation or registration or to dissolve the Recipient as a legal entity;
 - (ix) the Recipient is in receipt of TfNSW funding under any other agreement made with TfNSW and breaches that other agreement;
 - (x) TfNSW is not reasonably satisfied that the purposes and activities of the Recipient remain compatible with the Project; or
 - (xi) the Recipient, by written notice to TfNSW, ceases to provide the Project,
- then, in the case of any one or more of these events, TfNSW may immediately terminate this Agreement by giving written notice to the Recipient.
- (b) Where TfNSW terminates this Agreement under clause 14.2(a), TfNSW:

- (i) will not be obliged to pay the Recipient any outstanding amount of the Funding except to the extent that those monies have been legally committed for expenditure by the Recipient in accordance with this Agreement and are payable by the Recipient as a current liability (in which case, written evidence must be provided to TfNSW) as at the date on which the notice of termination is received by the Recipient; and
- (ii) will be entitled to recover from the Recipient any part of the Funding which:
 - (A) has not been legally committed for expenditure by the Recipient in accordance with this Agreement and is not otherwise payable by the Recipient as a current liability as at the date on which the notice of termination is received by the Recipient; or
 - (B) has not, in TfNSW's opinion, been expended by the Recipient in accordance with this Agreement.
- (c) If the Recipient does not repay to TfNSW the amount referred to in paragraph 24.2(b)(ii) within 10 Business Days of receipt of the notice of termination (or such longer period as may be specified by TfNSW in the notice of termination) the Recipient must also pay TfNSW Interest on the outstanding amount which the Recipient acknowledges represents a reasonable pre-estimate of the loss incurred by TfNSW as a result of the loss of investment opportunity for, or the reasonable cost of borrowing other money in place of the amount which should have been repaid. The amount set out in the notice of termination, and Interest owed under this clause 14.2 will, without prejudice to any other rights available to TfNSW under this Agreement or at Law or in equity, be recoverable by TfNSW as a liquidated debt due to TfNSW by the Recipient.
- (d) Nothing in this clause 14.2 operates to limit or exclude any of TfNSW's other rights, including the right to recover any other amounts from the Recipient on termination of this Agreement.

15. Indemnity, Release and Insurance

15.1 Indemnity and Release

- (a) To the maximum extent permitted by Law, the Recipient agrees to indemnify and keep indemnified TfNSW and its officers, employees and agents from and against all actions, proceedings, claims, demands, losses, costs, liabilities and expenses (including the costs of defending or settling any of these) in respect of:
 - (i) the death or illness of, or injury to, any person;
 - (ii) loss of or damage to any property; or
 - (iii) economic loss,directly or indirectly caused by, or arising out of or in connection with, the Project, the Funding, this Agreement, or any other understanding between the Recipient and TfNSW, except where such liability arises from any unlawful or negligent act or omission by TfNSW or its officers, employees and agents while in the course of their duties.

- (b) The indemnity contained in this clause 15.1 is a continuing obligation separate and independent from any of the Recipients other obligations or responsibilities and will survive termination or expiration of this Agreement.

15.2 Insurance

- (a) The Recipient must ensure when carrying out its obligations under this Agreement that it exercises the highest level of care and skill so as not to cause loss or damage to the property of, or personal injury or death to, any person.
- (b) The Recipient agrees that it has undertaken an assessment of the risks associated with the Project and this Agreement and has arranged, and will continue to maintain for as long as any obligations remain in connection with this Agreement, adequate and appropriate insurance cover to protect:
 - (i) its physical assets against loss and/or damage;
 - (ii) TfNSW's interests under this Agreement;
 - (iii) the Recipient against legal liability risk for personal injury and/or property damage or other financial loss claims including, without limitation:
 - (A) public liability;
 - (B) directors' and officers' liability; and
 - (C) professional indemnity;
 - (iv) the Recipient's volunteers for personal injury risk arising during voluntary duties; and
 - (v) the Recipient's employees by maintaining all insurances required under the *Workers Compensation Act 1987* (Cth).
- (c) The Recipient acknowledges that the insurances in this clause 15.2 may not cover all of its risks and that it may effect and maintain such additional insurances as it considers necessary.
- (d) The Recipient must ensure that any contractor or subcontractor engaged in connection with this Agreement maintains, as a minimum, insurances of the same type as specified in this clause 15.2 with an insurer recognised by the Australian Prudential Regulation Authority or regulated by a State/Territory Auditor-General. Whenever requested, the Recipient must provide TfNSW with evidence satisfactory to TfNSW that all contractors and subcontractors have complied with their obligation to insure.
- (e) On or before the date of this Agreement, and thereafter whenever requested by TfNSW from time to time, the Recipient must provide TfNSW with evidence satisfactory to TfNSW that the Recipient has complied with its obligation to insure.

16. Dispute Resolution

- (a) Subject to clause 16(c), both Parties agree not to commence any legal proceedings in respect of any dispute arising under this Agreement, which

cannot be resolved by informal discussion, until the procedure provided by this clause 16 has been utilised and fully exhausted.

- (b) Both Parties agree that any dispute or difference arising during the course of this Agreement will be dealt with as follows:
- (i) the Party claiming that there is a dispute or difference will send the other Party a written notice setting out the nature of the dispute;
 - (ii) the Parties will try to resolve the dispute through direct negotiation by persons who they have given authority to resolve the dispute;
 - (iii) the Parties have 10 Business Days (or such extended time as the Parties may agree in writing) from the receipt of the written notice referred to in clause 16(b)(i) to reach a resolution or to agree that the dispute is to be submitted to mediation or some alternative dispute resolution procedure; and
 - (iv) If:
 - (A) there is no resolution of the dispute;
 - (B) there is no agreement on submission of the dispute to mediation or some alternative dispute resolution procedure; or
 - (C) there is a submission to mediation or some other form of alternative dispute resolution procedure, but there is no resolution within 15 Business Days of the submission, or such extended time as the Parties may agree in writing before the expiration of the 15 Business Days,then, either Party may commence legal proceedings.
- (c) A Party must not commence legal proceedings in relation to a dispute unless:
- (i) the Parties have fully exhausted all attempts to resolve the dispute or difference in good faith and in accordance with the procedure outlined in clause 16(b) and the dispute or difference has not been successfully resolved; or
 - (ii) a Party is seeking urgent interlocutory relief.
- (d) If a dispute or difference exists, each Party must continue to perform its obligations under this Agreement.
- (e) This clause 16 does not apply to any allegations or any complaint about any issues that are criminal in nature.

17. Notices

17.1 Giving of Notices

- (a) A notice, consent, approval or other communication (**Notice**) under this Agreement must, unless otherwise specified in this Agreement, be in writing, signed by or on behalf of the person giving it (that is, either the Coordinator or

Recipient's Representative (as applicable)), and addressed to the person to whom it is given (that is, either the Coordinator or Recipient's Representative (as applicable)) and:

- (i) hand delivered;
 - (ii) sent by pre-paid registered or certified mail;
 - (iii) sent by facsimile to the Party's facsimile number; or
 - (iv) sent by email.
- (b) A Notice given to a person in accordance with this clause 17 is treated as being given and received:
- (i) delivered by hand, on the actual day of delivery if delivered before 5.00 pm on a Business Day, otherwise on the next Business Day;
 - (ii) if sent by pre-paid registered or certified mail, on the day of actual delivery if delivered before 5.00 pm on a Business Day, otherwise on the next Business Day; and
 - (iii) if transmitted by email or facsimile and the email read receipt or transmission report states that it was sent in full and without error, on the day of transmission if that report states that the transmission was completed before 5.00 pm on a Business Day, otherwise on the next Business Day.

17.2 Address for Notices

For the purposes of this clause 17, and unless otherwise advised in writing by the relevant Party, a Party (the **"sender"**) may take the postal and physical address, email address and facsimile number of another Party (the **"recipient"**) to be the postal address, email address and facsimile number set out in clauses 8.3 and 8.4 for the Coordinator and the Recipient's Representative (as applicable).

18. General

18.1 Legally Binding

This Agreement is a legally binding document.

18.2 Governing Law

- (a) This Agreement is governed by and must be construed according to the Laws applying in New South Wales.
- (b) Each Party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of New South Wales and any courts which have jurisdiction to hear appeals from any of those courts.

18.3 Amendments

This Agreement may only be varied by a document signed by or on behalf of each Party.

18.4 Waiver

- (a) Failure to exercise or enforce, or a delay in exercising or enforcing, or the partial exercise or enforcement of, a right or remedy by a Party, does not preclude, or operate as a waiver of, the exercise or enforcement of that right or remedy.
- (b) A waiver or consent given by a Party under this Agreement is only effective and binding on that Party if it is given or confirmed in writing by that Party.
- (c) No waiver of a breach of a term of this Agreement operates as a waiver of another breach of that term or of a breach of any other term of this Agreement.

18.5 Further acts and documents

Each Party must promptly do all further acts and execute and deliver all further documents (in form and content reasonably satisfactory to the other Party) required by Law or reasonably requested by the other Party to give effect to this Agreement.

18.6 Consents

A consent or approval required under this Agreement from a Party may be given or withheld, or may be given subject to any conditions, as that Party (in its absolute discretion) thinks fit, unless this Agreement expressly provides otherwise.

18.7 Assignment and Novation

- (a) The Recipient cannot assign, novate or otherwise transfer any of its rights or obligations under this Agreement without the prior written consent of the TfNSW.
- (b) TfNSW may, for its sole convenience and at its absolute discretion, assign, novate or otherwise deal with its rights and obligations without the Recipient's consent to any other Authority. The Recipient must execute any document reasonably required to give effect to the assignment, novation or other dealing.

18.8 No representation or reliance

- (a) Each Party acknowledges that no Party (nor any person acting on a Party's behalf) has made any representation or other inducement to it to enter into this Agreement, except for representations or inducements expressly set out in this Agreement.
- (b) Each Party acknowledges and confirms that it does not enter into this Agreement in reliance on any representation or other inducement by or on behalf of any other Party, except for representations or inducements expressly set out in this Agreement.

18.9 Entire agreement

To the extent permitted by Law, in relation to its subject matter, this Agreement:

- (a) embodies the entire understanding of the parties, and constitutes the entire terms agreed by the parties; and
- (b) supersedes any prior written or other agreement of the parties.

18.10 Counterparts

- (a) This Agreement may be executed in any number of counterparts and by the parties on separate counterparts. Each counterpart constitutes an original of this Agreement, all of which together constitute this Agreement.
- (b) A Party who has executed a counterpart of this Agreement may exchange that counterpart with another Party by:
 - (i) faxing; or
 - (ii) scanning and emailing,

the counterpart executed by it to that other Party and, upon request by that other Party, will thereafter promptly deliver by hand or post to that Party the executed counterpart so exchanged by fax or email, but delay or failure by that Party to so deliver a counterpart of this Agreement executed by it will not affect the validity of this Agreement.

18.11 Severability

If at any time any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under the Law of any jurisdiction, that will not affect or impair:

- (a) the legality, validity or enforceability in that jurisdiction of any other provision of this Agreement; or
- (b) the legality, validity or enforceability under the Law of any other jurisdiction of that or any other provision of this Agreement.

18.12 Representations

The Recipient represents and warrants that in connection with this Agreement:

- (a) all the information that the Recipient has given to TfNSW is accurate, and that the Recipient has not omitted to give TfNSW any information which TfNSW might reasonably expect the Recipient to give it;
- (b) it has power to enter into this Agreement and comply with its obligations; and
- (c) in entering into this Agreement the Recipient has relied on its own enquiries and independent legal advice, and not on any representation, warranty or other inducement by or on behalf of TfNSW except as expressly set out in this Agreement.

18.13 Corporate governance

The Recipient must inform TfNSW whenever there is a change in its Constitution, structure, management or operations which could reasonably be expected to affect its eligibility for the Funding or have an adverse effect on the Recipient's ability to comply with its obligations under this Agreement.

18.14 Clauses survive expiration or termination

Unless otherwise stated in this Agreement, any clause capable of continuing to apply after the expiration of the Term or termination of this Agreement for any reason will do so.

EXECUTED as an agreement.

Executed on behalf of **TRANSPORT FOR NSW** (ABN 18 804 239 602) by its authorised delegate in the presence of:

.....
Signature of Witness

.....
Name of Witness (print)

.....
Signature of delegate
Name:#
Freight, Strategy and Planning
Transport for NSW

[insert relevant execution block for Recipient]

Schedule 1

Item 1 - Purpose of Project (refer to clause 3 of the Agreement)

The purpose of the Project is to **[insert purpose of project]**.

Item 2 – Description of the Project (refer to clause 3 of the Agreement)

The Project will **[insert description of project]**.

Any extensions of time regarding the Project must be made to the Coordinator whose prior written agreement must be obtained in respect of any such extension.

There will be no variations to the Funding amount allowed.

Project type	[insert]
Target group	[insert]
Description	Specific objectives of the Project are: [insert description of project objectives]
Project Period	The Project will commence on or before [insert commencement date] and will end on [insert end date] (Project Period).

Item 2A – Funding Amount

Maximum Funding Amount	[\$insert]
-------------------------------	-------------------

Item 2B - Funding Milestones and Tranches

Milestone	Percentage of Funding that may be requested
Effective Date	40% ([\$insert])
[insert interim milestones]	[insert] % ([\$insert])

Item 3 - Performance Criteria (refer to, among other clauses, clause 3.2 of the Agreement)

The performance of the Project will be measured against the following criteria to the satisfaction of TfNSW and the Coordinator.

Indicator	Format	Target
Target groups	[insert]	[insert]
Outputs	[insert]	[insert]
Timeframe	[insert]	[insert]

Item 4– Communications (refer to clause 8 of the Agreement)

Subject to the terms of the Agreement, the Recipient will be responsible for identification and consultation with the key stakeholders regarding the Project.

SCHEDULE 2

ACQUITTAL CERTIFICATION STATEMENT BY RECIPIENT

Certificate by two authorised office bearers of the Recipient

We, [insert name] _____

and [insert name] _____

certify that the information contained in the financial statement of income and expenditure in relation to the Project referred to in clause 13(b) of the letter of grant, books, financial records and financial reports

of [insert details] _____

present the truth, fairness and accuracy of the accounts including the notes to the accounts of the organisation as at [insert date] _____.

We confirm that: [DELETE 1 OR 2 AS APPLICABLE]

1. An amount equal to the total Grant paid (\$[insert amount]) **has been expended** on the Project in accordance with the terms and conditions of the Funding Agreement dated [insert date] with the Transport for NSW

OR

2. The total Grant of \$[insert amount] **has not been expended.** An amount of \$ [insert amount] has not been expended and –

a cheque for this amount made payable to the [insert department name] is attached.

OR

we have today transferred by EFT (electronic funds transfer) this amount into the bank account of Transport for NSW.

All funds were expended in accordance with the terms and conditions of the Funding Agreement dated [insert date] with Transport for NSW.

AND

A complete set of accounting and financial records relevant to the Project have been maintained.

Date:

Signature: x

Name: [insert name]

Position: [insert details]

Witness signature: x

Witness name: [insert name]

Date:

Signature: x

Name: [insert name]

Position: [insert details]

Witness signature: x

Witness name: [insert name]

ATTACHMENT 1

ASSET REGISTER

Recipient organisation: *Insert details*
Service or project: *Insert details*
Funding period:

This Asset Register forms part of the Agreement.

Date of Purchase	Item Description	Make & Model	Serial Number	Location	Cost (excluding GST)