

Grant Agreement

Between

Australian Volunteers International

and

<Partner Organisation Name>

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Grant Agreement Definitions and Interpretations

Acquittal: report / statement detailing how grant funds were spent against the approved budget.

Activity: the activity to be performed under this Grant Agreement and referred to in the Grant Activity at **Item 2** of the Grant Agreement Details.

Activity Work Plan: the plan as outlined in **Schedule 1** of this Agreement.

Assets: any items of tangible property which are purchased, leased, created or otherwise brought into existence by, for or on behalf of the Grant Recipient either wholly or in part with use of the Funds, not including Agreement Material.

AVI: Australian Volunteers International having its address at 160 Johnston Street, Fitzroy, VIC 3065, Australia

DFAT: the Australian Government Department of Foreign Affairs and Trade.

Change of Control: means, in respect of an entity, any event occurs, at any time, such that any person ceases to or commences to, directly or indirectly have Control of that entity.

Commonwealth: means the Commonwealth of Australia or the Client, as appropriate.

Control: of an entity includes the direct or indirect power to:

- (a) direct the management or policies of the entity; or
- (b) control the membership of the board of directors, whether or not the power has statutory, legal or equitable force or is based on statutory, legal or equitable rights, and whether or not it arises by means of trusts, agreements, arrangements, understandings, practices, the ownership of any interest in shares or stock of that corporation or otherwise.

Client: the Client set out in **Item 4** of the Grant Agreement Details.

Confidential Information: any and all information disclosed to or acquired by the Grant Recipient from AVI, the Client or any other party for or in connection with the Agreement, but excludes information which is in or becomes part of the public domain otherwise than through breach of this Agreement or an obligation of confidence owed to AVI.

Conflict of Interest: is a situation in which the impartiality of a person in discharging their duties could be called into question because of the potential (perceived or actual) influences of personal considerations whether these are financial or other. The conflict in question is between official duties and obligations on the one hand, and private interests on the other.

Fraud / Fraudulent Activity: dishonestly obtaining a benefit, or causing loss, by deception or other means.

Grant Account: means the bank account used for this Activity by the Grant Recipient.

Grant Agreement: this Agreement including the recitals, schedules and annexures (if any).

Grant Agreement Details: the summarised details noted at the front of this Agreement that are unique to this Activity.

Grant Agreement Material: all Material created or required to be developed or created on or following the commencement of the term of this Agreement as part of, or for the purpose of the Recipient performing the Activity.

Grant Agreement Period: the period from the Start Date at **Item 6** of the Grant Agreement Details to the date at **Item 7**.

Grant Funds: the grant funding paid by AVI to the Recipient under this Agreement and any interest earned by, for or on behalf of the Recipient on that grant funding, proceeds from the disposal or write-off of any Asset and any exchange rate gains made on that grant funding by the Grant Recipient.

Grant Recipient means the Party named at **Item 3** of the Grant Agreement Details.

Grant Recipient Personnel: means the Grant Recipient's employees, officers, agents, volunteers, subgrantees, subcontractors or professional advisers.

Intellectual Property Rights: means all intellectual property rights including copyright and all rights in relation to inventions (including patent rights), trademarks, designs, and any other rights resulting from intellectual activity in the industrial, scientific, literary and artistic fields recognised in domestic law anywhere in the world.

Law includes:

- (a) Acts of the Commonwealth and the State(s) and Territory(s), and the Partner Country in which the Activity will be undertaken, and any other relevant State or Territory;
- (b) ordinances, regulations, by-laws, orders and proclamations or other instruments of legal effect made under those Acts referred to in paragraph (a);
- (c) directions by any person exercising statutory powers regarding the Grant Recipient or the Activity; and
- (d) all the requirements, standard, approvals, licences, registrations or permits of any government (including local government) department, authority, agency or regulatory body that apply to the Activity,

whether currently in force or coming into force on or after the date of this Agreement;

Material includes property, equipment, information, data, photographs, documentation or other material in any form, including any software, reports, specifications, business rules or requirements, user manuals, user guides, operations manuals, training materials and instructions, and the subject matter of any category of Intellectual Property Rights.

Moral rights: means a personal right independent of an author's economic rights; moral rights include the right to claim authorship of a work (right of attribution) and to object to modifications of the work such as distortion, mutilation, or other derogatory action in relation to the work that would be prejudicial to the author (right of integrity) and a right not to have authorship falsely attributed.

Party/Parties: means one / both of the two signatories to this Agreement.

Partner Country: means the country or countries where the Activity will take place.

Personnel: means any natural person who is an officer, employee, agent, adviser or volunteer of the Grant Recipient or its subcontractors or subgrantees.

Pre-existing Grant Recipient Material: means any Material developed by the Grant Recipient that:

- (a) is in existence at the date of commencement of this Agreement or is subsequently brought into existence other than as a result of the performance of the Agreement, and
- (b) is embodied in, or attaches to, the Grant Activity or is otherwise necessarily related to the functioning or operation of the Grant Activity.

Relevant List: means any similar list to the World Bank List maintained by any other donor of development funding.

Third Party Material: means any Material made available by the Grant Recipient for the purpose of the Agreement in which a third party holds Intellectual Property Rights.

World Bank List: means a list of organisations maintained by the World Bank in its "Listing of Ineligible Firms" or "Listings of Firms, Letters of Reprimand" posted at: <http://web.worldbank.org>

Standard Conditions

Common Provisions

1. Grant Agreement

- 1.1 This Grant Agreement consists of:
- Grant Agreement Details
 - Grant Agreement Definitions and Interpretations
 - Standard Conditions
 - Schedule 1 – Grant Activity Proposal
- 1.2 In the event of any inconsistency between the Grant Agreement Standard Conditions and the Schedules, then the order of precedence of those documents listed at **Clause 1.1** shall prevail to the extent of any inconsistency.

2. Grant Recipient's Obligations

- 2.1 The Grant Recipient agrees to carry out the Activity:
- in accordance with Schedule 1;
 - in an effective, economical and ethical manner;
 - in accordance with this Agreement;
 - diligently and to a high standard; and
 - in accordance with all applicable Laws.
- 2.2 The Grant Recipient agrees to:
- comply with all of AVI's reasonable requests, directions, monitoring or reporting requirements;
 - comply with any request or requirements of the Client arising out of or connected with a Commonwealth grant funding agreement or policy where applicable;
 - liaise with and provide information to AVI as reasonably notified by the AVI;
 - provide all reasonable assistance required by AVI from time to time;
 - advise AVI immediately of any difficulties or delays which may materially affect the implementation of the Activity;
 - acknowledge that the Grant provided by AVI for this Activity does not entitle it to any other or further grants;
 - not represent itself and ensure that its Personnel participating in the Activity do not represent themselves as being employees, or agents of AVI or the Client;
 - not assign its interest in this Agreement without first obtaining the consent in writing of AVI;
 - accept responsibility for and to manage all the risks associated with the Activity. The Grant Recipient agrees to maintain appropriate risk mitigation measures to AVI's satisfaction, which may include preparing, maintaining and using risk registers.

3. Variation

- 3.1 The Parties agree and accept that the Activity may be changed as directed by AVI or the Client from time to time, and as a consequence this Grant Agreement may be subject to change.
- 3.2 AVI may change or modify allowances or policies in line with any changes to its corporate policies or as required by the Client.
- 3.3 If either Party notifies the other Party that they wish to vary this Grant Agreement, both Parties must use all reasonable endeavours to agree on the terms of such variations including any consequent changes in the total Grant Funds due to the Grant Recipient.
- 3.4 Any amendment or variation to this Grant Agreement must be in writing and agreed to by both Parties.

4. Applicable Law

- 4.1 This Grant Agreement is governed by the law of the State of Victoria in the Commonwealth of Australia.

Grant Funds

5. Grant Funds and Disbursements

5.1

- Subject to this Grant Agreement (including satisfaction of the payment criteria as set out in Clause 5.1(b) if any), AVI will provide the Grant Funds to the Grant Recipient.
- AVI will pay the Funds to the Grant Recipient as set out in the table below:

Payment criteria to be met	Indicative dates	Amount (AUD)
Contract signing	<Date>	<Total Amount Requested>

- 5.2 AVI is not responsible for the provision of additional money to meet any expenditure in excess of the Grant Funds.
- 5.3 AVI will disburse the Grant Funds into a nominated bank account. This bank account must be in the Grant Recipient's name (and not in the name of an individual) and be solely controlled by the Grant Recipient, unless otherwise agreed in advance.
- 5.4 If upon termination of this Grant Agreement, or upon activity completion, if there is any uncommitted or unspent Grant monies, the Grant Recipient must refund those monies together with any uncommitted or unspent interest, to AVI within thirty (30) days of the End Date or revised End Date as advised in a notice to terminate.
- 5.5 Where Grant monies are shown, either by audit or other mechanisms, to have been misappropriated or used in a manner inconsistent with the approved Activity Work Plan at **Schedule 1**, the Grant Recipient undertakes to refund AVI all such funds in their entirety (plus interest equal to the interest that would have been earned on the funds had they remained in the bank account).
- 5.6 The Grant Recipient must use the Grant Funds, including any interest earned or exchange rate gains diligently and for the sole purpose of the Activity outlined in **Schedule 1** of this Grant Agreement.
- 6. Taxation**
- 6.1 The Grant Recipient is responsible for payment of any and all applicable taxes, levies and other Government charges that may be imposed or levied in Australia or overseas in connection with the performance of this Agreement.
- 6.2 The Grant Recipient will indemnify AVI for any costs that we may incur in relation to the Grant Recipient's failure to meet any assessment or penalty under any applicable tax legislation.
- 7. Grant Policies**
- 7.1 The execution of the Grant will be conducted in line with the principles of the Commonwealth Grant Rules and Guidelines:
- robust planning and design;
 - collaboration and partnership;
 - proportionality;
 - an outcomes orientation;
 - achieving value with public money;
 - governance and accountability; and
 - probity and transparency.
- 7.2 The 2017 Commonwealth Grant Rules and Guidelines can be found here:
<https://www.finance.gov.au/sites/default/files/2019-11/commonwealth-grants-rules-and-guidelines.pdf>
- 8. Grant Activities**
- 8.1 Grant funds must not be spent to facilitate:
- Proselytizing or evangelism;
 - Activities supporting political campaigns or parties.

9. Procurement Policies

- 9.1 If the Grant Funds are being used to procure goods or services, the Grant Recipient must implement procedures so that procurement is undertaken in a manner consistent with the principles of the Australian Commonwealth Procurement Rules (see: <https://www.finance.gov.au/procurement/commonwealth-h-procurement-rules/>)
- 9.2 If the Grant Funds are being used to procure goods, the Grant Recipient must ensure in its procurement of goods that the goods to be procured:
- are of a merchantable quality;
 - are free from defects in design, materials and workmanship;
 - are fit for purpose;
 - have good and marketable title and are free from encumbrances; and
 - are delivered in good order and condition and in accordance with the milestones.
- 9.3 If the Grant Funds are being used to procure services, the Grant Recipient must ensure in its procurement of services that the services to be procured are performed:
- diligently, effectively, safely and to a professional standard; and
 - with the skill and care normally exercised by similarly qualified and competent persons in the performance of comparable work.

10. Assets

- 10.1 Ownership
- The Grant Recipient must not use the Grant Funds to acquire any Assets, apart from those Assets specified in **Schedule 1** or otherwise approved in writing by AVI. Approval may be given subject to any conditions AVI may impose.
 - Subject to the requirements of this **Clause 10** and the terms of any lease, the Grant Recipient will own the Assets unless otherwise agreed in writing with AVI or the Client.
- 10.2 Use and Dealings
- During the Grant Agreement Period, the Grant Recipient must use any Asset only for the purposes of the Activity, or other purposes consistent with the Activity, as approved by AVI.
 - During the Grant Agreement Period, the Grant Recipient must:
 - obtain good title to all Assets (other than Assets which the Grant Recipient leases);
 - hold all Assets securely and safeguard them against Fraud, theft, loss, damage, or unauthorised use;
 - report all Fraud, theft, loss or damage immediately to AVI; in such cases the Grant Recipient must follow all instructions from AVI including replacement of the Asset if required;
 - maintain all Assets in good working order;
 - not dispose of or write-off Assets purchased with the Grant except as approved by AVI;
 - maintain all appropriate insurances in respect of any Assets;
 - if required by law, maintain registration and licensing of all Assets;
 - be fully responsible for, and bear all risks relating to, the use or disposal of all Assets; and
 - maintain an Asset register for all non-consumables. The Grant Recipient will provide a copy of the Asset Register to AVI on request.
 - The Asset register and other relevant documents such as import papers and manufacturers' warranties relating to the Assets must be available for audit or review as required by AVI or the Client.

11. Subgrants and Subcontracts

- 11.1 The Grant Recipient must not subgrant or subcontract any component of this Activity without AVI's prior written approval.
- 11.2 The terms of any subgrant or subcontract will be subject to and be in conformity with the provisions of this Agreement.
- 11.3 If the Grant Recipient administers a subgrant or subcontract, the Grant Recipient will remain liable for the acts, defaults and omission of the subgrantee/subcontractor as if they were the Grant Recipient's acts, defaults and omissions.
- 11.4 AVI may direct the Grant Recipient to terminate a subcontracting arrangement by notifying the Grant Recipient in writing.
- 11.5 Upon receipt of a written notice from AVI directing the Grant Recipient to terminate a subcontracting arrangement, the Grant Recipient must, as soon as practicable, cease using that subcontractor to perform any of the Grant Recipient's obligations unless AVI directs that the subcontractor be replaced immediately, in which case the Grant Recipient must comply with the direction.
- 11.6 Any subgrant/subcontract entered into by the Grant Recipient for the performance of any part of this Agreement must contain clauses:
- that authorise AVI or the Client to publish details of the name of the subgrantee/subcontractor and the nature of the Services that the subgrantee/subcontractor is contracted to perform;
 - under which the subgrantee/subcontractor assumes all the Grant Recipient's obligations and gives all the warranties the Grant Recipient gives, under this Agreement to the extent they are relevant to the Activity the subgrantee/subcontractor is contracted to perform;
 - that reserves a right of termination to take account of AVI's right to direct the Grant Recipient to terminate the subgrant/subcontract; and
 - that give the Client the right of substitution to further novate the subgrant/subcontract to another party.
- 11.7 The subgrantee/subcontractor entering into a subgrant/subcontract for the provision of parts or elements of the performance of the Activity, or provision of the Goods, does not create any contractual relationship between AVI or the Client and the subgrantee/subcontractor.

12. Monitoring and Evaluation

- 12.1 The Parties agree to regularly meet at the times and in the manner reasonably require by AVI to discuss Activity progress and any issues in relation to this Grant Agreement or the Activity.
- 12.2 The Grant Recipient agrees that AVI, or the Client, may monitor and/or evaluate the Activity and/or use of the Grant Funds. In that event, the Grant Recipient agrees to fully cooperate with any request for assistance pursuant to any such monitoring and evaluation whilst continuing to perform its obligations under this Agreement.

13. Reports

- 13.1 The Grant Recipient agrees to submit reports on the Activity and/or other deliverables as agreed between the parties
- 13.2 Within thirty (30) days of completion of the Activity, the Grant Recipient must submit to AVI a final Activity Completion Report, which provides a brief outline of the Activity and in more detail covers key outcomes against objectives, development impact, sustainability and lessons learned.
- 13.3 When the Grant Recipient provides AVI with a report, AVI will notify the Grant Recipient in writing that it has either:
- accepted the report; or

- (b) rejected the report, providing reasons for its rejection.
- 13.4 If AVI rejects a report, the Grant Recipient must submit a revised report which addresses AVI's reasons for rejection within two (2) weeks of notification.
- 14. Compliance with Laws, Guidelines and Policies**
- 14.1 The Grant Recipient must at all times have regard to and comply with, and ensure that it and its Personnel complies with the applicable laws of the country where the Activity takes place.
- 14.2 The Grant Recipient must, if required and requested by AVI, provide to AVI a current police clearance certificate of its Personnel.
- 14.3 The Grant Recipient must ensure that it complies with all DFAT policies relevant to its Grant activity including:
- (a) the disability inclusive strategy: 'Development for All 2015-2020: Strategy for strengthening disability-inclusive development in Australia's aid program, accessible on the DFAT website at: <https://dfat.gov.au/about-us/publications/Pages/development-for-all-2015-2020.aspx>. Particular attention must be directed towards the Strategy's guiding principles;
- (b) the 'Child Protection Policy', accessible on the DFAT website at: <https://dfat.gov.au/about-us/publications/Pages/child-protection-policy.aspx>;
- (c) the 'Family Planning and the Aid Program: Guiding Principles' (2009) for the DFAT - Australian Aid Program, accessible on the DFAT website at: <https://dfat.gov.au/about-us/publications/Pages/family-planning-and-the-aid-program-guiding-principles.aspx>;
- (d) information accessibility requirements accessible on the DFAT website at: <https://dfat.gov.au/about-us/about-this-website/Pages/accessibility.aspx>;
- (e) the 'Environmental and Social Safeguard Policy for the Aid Program', accessible on the DFAT website at: <https://dfat.gov.au/about-us/publications/Pages/environmental-social-safeguard-policy.aspx>;
- (f) the 'Gender equality and women's empowerment strategy' (February 2016) accessible on the DFAT website at: <https://dfat.gov.au/about-us/publications/Pages/gender-equality-and-womens-empowerment-strategy.aspx>; and
- (g) the Preventing Sexual Exploitation, Abuse and Harassment Policy' (April 2019) accessible on the DFAT website at: <http://www.dfat.gov.au/pseah>.
- 14.4 The Grant Recipient must immediately notify AVI of any material breach by the Grant Recipient or its Personnel of a law or policy referred to in this **Clause 14**.
- 15. Child Protection**
- 15.1 The Grant Recipient will comply at all times with the DFAT and AVI child protection policies available on request.
- 15.2 The Grant Recipient is responsible and accountable to AVI for preventing and reporting any suspected or actual child abuse or exploitation.
- 15.3 The Grant Recipient must immediately advise AVI in writing if the Grant Recipient or any of its Personnel are accused of, charged with, suspected of, arrested for, or convicted of, criminal offences relating to child abuse or exploitation. AVI or the Client may require the Grant Recipient's Personnel to be suspended from duty or transferred to other duties during formal investigations relating to child abuse or exploitation.
- 15.4 This **Clause 15** is a fundamental term of the Agreement, and breach of this **Clause 15** shall:
- (a) entitle AVI to take any action to the maximum extent permitted by law to prevent any abuse or exploitation of children (if capable of prevention) by the Grant Recipient's Personnel and recover all and any damages from the Grant Recipient, and
- (b) entitle AVI to terminate this Agreement immediately without notice and make no compensation to the Grant Recipient for such termination.
- 16. Preventing Sexual Exploitation, Abuse and Harassment**
- 16.1 The Grant Recipient and its Personnel must comply at all times with the DFAT Preventing Sexual Exploitation, Abuse and Harassment Policy.
- 16.2 The Grant Recipient and its Personnel are responsible and accountable to AVI for reporting suspected or alleged cases sexual exploitation, abuse and harassment that relates to the Activity within 48 hours of becoming aware of the case.
- 16.3 The Grant Recipient and its Personnel are responsible and accountable to AVI for reporting any alleged incidents of non-compliance with AVI's Preventing Sexual Exploitation, Abuse and Harassment Policy within 5 Business Days of becoming aware of the incident.
- 16.4 This **Clause 16** is a fundamental term of the Agreement, and breach of this **Clause 16** shall:
- (a) entitle AVI to take any action to the maximum extent permitted by law to prevent any Sexual Exploitation, Abuse and Harassment (if capable of prevention) by the Grant Recipient and recover all and any damages from the Grant Recipient, and
- (b) entitle AVI to terminate this Agreement immediately without notice and make no compensation to the Grant Recipient for such termination.
- 16.5 The Grant Recipient must advise AVI immediately in writing if any of its Personnel are accused of, charged with, arrested for, or convicted of, criminal offences relating to sexual exploitation, abuse or harassment. AVI or the Client may require the Grant Recipient's Personnel to be suspended from duty or transferred to other duties during formal investigations relating to sexual exploitation, abuse or harassment. The Grant Recipient must comply promptly with any such notice.
- 17. Work Health and Safety**
- 17.1 The Grant Recipient accepts responsibility for the health, safety and security of all of its Personnel involved in the undertaking of this Activity.
- 17.2 The Grant Recipient must comply with its obligations under any applicable workplace health and safety law and ensure that all Personnel comply with their obligations under workplace health and safety law.
- 17.3 Where directed by AVI or the Client, the Grant Recipient agrees to participate in any workplace health and safety inspection and/or investigation.
- 17.4 The Grant Recipient agrees that AVI may give the Client, upon request, any relevant information about workplace health and safety issues and incidents that may contain information about the Grant Recipient.
- 18. Publicity and Branding**
- 18.1 The Grant Recipient must acknowledge the financial or other support was *provided by the Australian Volunteers Program, funded by the Australian Government*, in any publications, promotional materials, announcements, events and activities in relation to the activity, or any products, processes developed as a result of it.
- 18.2 The Grant Recipient must not make any press, media or other announcements or releases relating to this Grant Agreement and the Activity either during or after the implementation of the Activity without the prior written approval of AVI including the form, content and manner of the announcement or release.
- 19. Novation**
- 19.1 The Grant Recipient acknowledges and agrees that AVI or the Client may issue a notice of substitution under a deed of novation to novate this Agreement to another Party.
- 19.2 If requested by AVI or the Client, the Grant Recipient must provide to AVI an executed deed of novation in the form provided by or acceptable to AVI.

Information Management, Accounts and Audits

20. Intellectual Property Rights

- 20.1 This **Clause 20** does not affect ownership of the Intellectual Property Rights in any Pre-existing Grant Recipient Material.
- 20.2 The Grant Recipient grants to AVI and the Client a perpetual, royalty-free, irrevocable, non-exclusive, worldwide licence to exercise all rights of the owner of the intellectual property in all material incorporated in any Grant Agreement Material that is provided to AVI or the Client under this Agreement.
- 20.3 The Grant Recipient warrants that all material utilised in conducting the Grant Activity will not infringe any patent, registered trademark, copyright or any other Intellectual Property Rights or Moral Rights. The Grant Recipient will keep indemnified AVI and the Client against all losses, damages, liabilities, claim, costs and expenses (including legal costs) which may arise from or be incurred because of any infringement or alleged infringement of such right or rights.
- 20.4 Subject to **Clause 20.1**, all Intellectual Property Rights in the Grant Agreement Material vest in AVI on creation, unless otherwise agreed in writing, signed by AVI.
- 20.5 The Grant Recipient warrants or undertakes that the author of any Grant Agreement Material and who may have or may be able to claim to have Moral Rights in respect of such Grant Agreement Material (each a "Moral Rights Owner") provides to AVI a written, signed consent in a form acceptable to AVI allowing AVI, or any third party engaged or otherwise authorised by AVI, to do any or all of the following acts or omissions at any time in its absolute discretion:
- (a) not identify the Moral Rights Owner as the author of the Grant Agreement Material (or a substantial part or adaption of them), or identify a person other than the Moral Rights Owner as the author of the Grant Agreement Material; and
 - (b) materially distort, destroy, mutilate, alter or in any other way change the Grant Agreement Material;
 - (c) add to, delete from or retitle the Grant Agreement Material;
 - (d) reproduce, publish, copy or adapt the Grant Agreement Material; and/or
 - (e) communicate, show or exhibit the Grant Agreement Material in, or to the, public.

21. Client Use of Agreement Information

- 21.1 AVI may disclose matters relating to this Grant Agreement, including this Grant Agreement, and other relevant information, except where such information may breach the *Privacy Act 1988* (Cth), to Commonwealth Governmental departments and agencies, Commonwealth Ministers and Parliamentary Secretaries, and to the Commonwealth Parliament, including responding to requests for information from Parliamentary committees or inquiries. In addition, the Client may publicly report information regarding this Grant Agreement.
- 21.2 This **Clause 21** shall survive expiration or termination of this Agreement.

22. Confidentiality

- 22.1 The Grant Recipient must not disclose, duplicate, or make unauthorised use of any Confidential Information to any other person other than those individuals who need to have access to the Confidential Information to carry out the Grant Agreement and then only if those individuals acknowledge confidentiality on the same terms as this **Clause 22**.
- 22.2 This **Clause 22** shall survive expiration or termination of this Grant Agreement.

23. Privacy

- 23.1 The Grant Recipient to the extent it deals with Personal Information (as that term is defined in the *Privacy Act 1988* (Cth) (Privacy Act)) held by AVI or the Client for the purpose of conducting the Grant Activity, agrees

that the Grant Recipient will, in respect of that information:

- (a) comply, and ensure that all Personnel comply with the Australian Privacy Principles in the Privacy Act; and
- (b) comply generally with the Privacy Act and any other law in Australia or elsewhere which relates to the protection of Personal Information and which the Grant Recipient must observe.

24. Accounts and Records

- 24.1 The Grant Recipient must provide financial reporting of grant expenditure, in accordance with **Clause 13** and in line with agreed reporting.
- 24.2 The Grant Recipient must:
- (a) maintain a sound administrative and financial management system capable of verifying all financial statements;
 - (b) keep proper and detailed records of receipts and payments including all supporting documents, bank records and Asset registers along with adequate Activity management records providing clear audit trails in relation to this Grant Agreement;
 - (c) afford adequate facilities for audit and inspection of the financial records referred to in this Grant Agreement by AVI and its authorised representatives at all reasonable times and allow copies and extracts to be taken; and
 - (d) ensure that all accounts and records are held by the Grant Recipient for the term of this Grant Agreement and for a period of seven (7) years from the date of expiry or termination of this Grant Agreement.

25. Audits

- 25.1 The Grant Recipient must fully comply with any request from AVI or the Client to participate in an independent audit of Grant funds.

26. Access to Documents

- 26.1 The Grant Recipient acknowledges that upon request AVI or its Client may access any document created by, or in the possession of, the Grant Recipient that relates to the Activity, and will provide such documents in a timely manner.

Risk Management

27. Indemnity

- 27.1 The Grant Recipient must at all times indemnify AVI, its employees, agents and subcontractors (but not the Grant Recipient) ("those indemnified") from and against any loss or liability whatsoever suffered by those indemnified or arising from any claim, suit, demand, action or proceeding by any person against any of those indemnified where such loss or liability was caused or contributed to in any way by any wilfully wrongful, unlawful or negligent act or omission of the Grant Recipient, or any Grant Recipient Personnel in connection with this Grant Agreement.
- 27.2 The Grant Recipient agrees that AVI may enforce the indemnity in favour of those indemnified for the benefit of each of such persons in the name of AVI or of such persons.
- 27.3 The indemnity in this **Clause 27** is reduced to the extent that the loss or liability is directly caused by AVI, its employees or subcontractors (but not the Grant Recipient), as substantiated by the Grant Recipient.
- 27.4 The right of those indemnified under this **Clause 27** is in addition to, and not exclusive of, any other right, power or remedy provided by law.

28. Insurance

- 28.1 Unless otherwise agreed in writing by AVI, the Grant Recipient must maintain all insurances that a prudent Grant Recipient would maintain for this Grant Agreement as required by law in its country of business or as reasonably required by AVI to cover issues such as public liability, professional indemnity, workers

- compensation, motor vehicle and property insurance. Upon request, the Grant Recipient must provide to AVI copies of the certificate of currency.
- 28.2 All insurance cover must be valid for the term of this Grant Agreement with Professional Indemnity insurance, where required, valid for three (3) years after the end date of this Agreement or earlier termination of this Agreement.
- 28.3 AVI undertakes no responsibility in respect of any life, medical, accident, travel or any other insurance coverage which may be necessary or desirable for the Personnel or subcontractors of the Grant Recipient or the Subgrant Recipient, or for the dependants of any such persons as may travel for the purposes of the Activity.
- 29. Conflict of Interest**
- 29.1 The Grant Recipient warrants that, to the best of its knowledge after making diligent inquiry at the date of signing this Grant Agreement, no Conflict of Interest exists or is likely to arise in the performance of its obligations under this Grant Agreement; except those listed in writing in **Schedule 1**.
- 29.2 The Grant Recipient must use its best endeavours to ensure that a situation does not arise, which may result in a Conflict of Interest.
- 29.3 Where a Conflict of Interest, or a potential Conflict of Interest, arises in the performance of the Grant Recipient's obligations under this Grant Agreement, the Grant Recipient must notify AVI immediately, and take any steps AVI reasonably requires to resolve or otherwise manage the Conflict of Interest, or a potential Conflict of Interest.
- 30. Counter-Terrorism**
- 30.1 The Grant Recipient must ensure that funds provided under this Agreement (whether through a subgrant, subcontract or not) do not provide direct or indirect support or resources to:
- (a) Recipients and/or individuals associated with terrorism;
 - (b) Recipients and individuals for whom Australia has imposed sanctions under: the Charter of the United Nations Act 1945 (Cth) and regulations made under that Act; the Autonomous Sanctions Act 2011 (Cth) and regulations made under that Act or the World Bank List or a Relevant List; and
- 30.2 If during the term of this Agreement, the Grant Recipient becomes aware or should have reasonably become aware that funds or resources have directly or indirectly been provided to recipients or individuals associated with terrorism, the Grant Recipient must inform AVI immediately. Failure to inform AVI in accordance with this clause (or if we reasonably suspect that you have failed to inform us) will entitle us to terminate this Agreement immediately in accordance with **Clause 35**.
- 31. Fraud**
- 31.1 This **Clause 30** applies to any Fraud which relates to the Activity, this Grant Agreement or any contract under the Activity.
- 31.2 The Grant Recipient must not engage in any Fraudulent Activity. The Grant Recipient is responsible for preventing and detecting Fraud.
- 31.3 If the Grant Recipient becomes aware of a Fraud, it must report the matter to AVI in writing within five (5) business days. The Grant Recipient must investigate the Fraud at the Grant Recipient's cost and in accordance with any directions or standards required by AVI.
- 31.4 After the investigation is completed, if a suspected offender has been identified, the Grant Recipient must promptly report the Fraud to the local police and any other appropriate law enforcement agency in the country where the incident occurred, unless the Client agrees otherwise in writing.
- 31.5 If the investigation finds the Grant Recipient has engaged in Fraudulent Activity, the Grant Recipient must:
- (a) if Grant funds have been misappropriated, pay to AVI the full value of the Grant Funds that have been misappropriated; or
 - (b) if Grant-funded property has been misappropriated, either return the property to AVI or, if the property cannot be recovered or has been damaged so that it is no longer usable, replace the property with property of equal quality.
- 31.6 If the investigation finds that a person other than the Grant Recipient has engaged in Fraudulent Activity, the Grant Recipient must, at the Grant Recipient's own cost, take all reasonable action to recover any Grant Funds or Grant-funded property acquired or distributed through Fraudulent Activity.
- 31.7 The Grant Recipient's obligation to report and investigate Fraud in accordance with this **Clause 31** will survive the termination or expiration of this Grant Agreement.
- 32. Anti-Corruption**
- 32.1 The Grant Recipient warrants that it will not make or cause to be made, nor will the Grant Recipient receive or seek to receive, any offer, gift or payment, consideration or benefit of any kind, which would or could be construed as an illegal or corrupt act, either directly or indirectly to any party, as an inducement or reward in relation to the execution of this Grant Agreement. In addition, the Grant Recipient will not bribe public officials.
- 32.2 Any breach of this **Clause 32** will entitle AVI to issue a notice under **Clause 35** to terminate this Agreement immediately.
- Remedies, Disputes and Termination**
- 33. Resolution of Disputes**
- 33.1 In the event of any disagreement or dispute between both Parties arising in connection with this Grant Agreement, both Parties agree to use the best endeavours to reach an amicable settlement. If such a settlement cannot be reached within 30 calendar days from the occurrence of a dispute notified by either Party to the other, then the Parties agree all such disagreements or disputes shall be settled by arbitration exclusively in accordance with the arbitration rules of the Australian Centre for International Commercial Arbitration (known as the ACICA Arbitration Rules) where the seat of the arbitration will be Melbourne and the governing law is the Laws of Victoria, Australia. The number of arbitrators will be one and the language of the arbitration will be in English.
- 33.2 Any information or documents disclosed in connection with the resolution of the dispute must be kept confidential and may not be used except to attempt to settle the dispute or within the arbitral proceedings provided for in **Clause 33.1** above.
- 33.3 Both Parties will each bear their own costs of resolving a dispute under this clause and will bear equally the costs of any third party engaged provided that such third parties have been engaged at the express request of both Parties.
- 33.4 Unless otherwise directed by AVI, whilst both Parties attempt to resolve the dispute, the Grant Recipient will continue to undertake the Activity.
- 34. Specific Obligations**
- 34.1 The Grant Recipient will:
- (a) respect and abide by the laws and regulations of its country of business;
 - (b) comply with AVI's requirements and that of the Client with respect to good behaviour, ethical and honest standards, and professionalism;
 - (c) take all reasonable steps to favourably represent AVI's and the Client's interests;

- (d) advise AVI immediately if the Grant Recipient or any of its Personnel are subject to any proceedings or an informal process which could lead to listing on a Relevant List of Ineligible Firms and Individuals, such as the World Bank List, the Asian Development Bank's Published Sanctions List or other similar lists by other donors.

35. Termination by Notice

35.1 In addition to any other rights or remedies it has at law or in equity or under this Agreement, AVI may, by notice in writing to the Grant Recipient, terminate this Agreement with effect from the date in the notice, if the Grant Recipient:

- (a) commits a breach of this Agreement or any Grant Agreement and:
 - (i) that breach is not capable of remedy;
 - (ii) fails to remedy that breach within ten (10) business days (or such further time as AVI may, in its absolute discretion, specify), after receiving a notice from AVI requiring the Grant Recipient to remedy the breach; or
 - (iii) does not commence to remedy that breach, within a reasonable time (having regard to the nature of the breach) after being given notice by AVI requiring the Grant Recipient to remedy the breach;
- (b) becomes, or in AVI's reasonable opinion is likely to become, bankrupt, insolvent or otherwise financially unable to fulfil its obligations under this Agreement;
- (c) is wound up by resolution or an order of the court;
- (d) ceases to carry on business;
- (e) makes an assignment of its estate for the benefit of creditors or enters into any arrangement or composition with its creditors or has a receiver and manager appointed on behalf of debenture holders or creditors;
- (f) suffers any execution against its Assets having, or which in AVI's reasonable opinion is likely to have, an adverse effect on its ability to perform this Agreement;
- (g) ceases to hold any licence, qualification, approval, authority or consent required for the Grant Recipient to comply with its obligations under this Agreement (except to the extent that this is outside the Grant Recipient's reasonable control);
- (h) assigns its rights otherwise than in accordance with the requirements of this Agreement;
- (i) suffers a Change of Control which in AVI's reasonable opinion may adversely affect the Grant Recipient's ability to deliver the Activity under this Agreement;
- (j) is, during the term of this Agreement, listed on a Relevant List;
- (k) is found or AVI forms a reasonable belief that the Grant Recipient or any of its Personnel are associated with or in any way connected with or providing funds or resources either directly or indirectly to recipients and/or individuals associated with terrorism; or
- (l) is, during the term of this Agreement, convicted of an offence of, or relating to, bribery of a public official.

35.2 Subject to agreement by the Parties to the contrary, if this Agreement is terminated under this **Clause 35.2**:

- (a) all licences and authorisations granted to the Grant Recipient by AVI under this Agreement terminate immediately;
- (b) the AVI Confidential Information and any other property supplied or given to the Grant Recipient by AVI pursuant to this Agreement must be immediately returned to AVI;

- (c) AVI is not obliged to make any further disbursements to the Grant Recipient; and
- (d) the Grant Recipient will indemnify and hold AVI harmless against any losses, costs and expenses arising out of or in connection with the termination or any breach of this Agreement by the Grant Recipient.

36. Termination for Convenience

36.1 In addition to any other rights it has under this Agreement, AVI may terminate this Agreement at any time, in whole or in part, by notifying the Grant Recipient in writing that this Agreement, or a part of this Agreement, is terminated from the date specified in the notice (which must not be a date earlier than the date on which the notice is received by the Grant Recipient), and, in that event, AVI may give to the Grant Recipient such directions as it sees fit in relation to subsequent performance of this Agreement.

36.2 Where notice is given under this Clause the Grant Recipient must:

- (a) comply with all directions given by AVI;
- (b) cease or reduce (as applicable) the performance of work under this Agreement; and
- (c) immediately do everything possible to mitigate losses, and all other loss, costs (including the costs of compliance with any directions) and expenses in connection with the termination (including those arising from affected subcontractors) arising in consequence of termination of this Agreement under this **Clause 36.2**.

36.3 In the event of termination or reduction in scope under this Clause, subject to **Clause 36.4** below, AVI will only be liable to the Grant Recipient for:

- (a) Components of the Activity that are delivered, as payable under Error! Reference source not found. prior to the termination, on a pro rata basis; and
- (b) Costs that are:
 - (i) directly attributable to the termination or reduction in scope of this Agreement; and
 - (ii) in AVI's opinion, reasonably and properly incurred by the Grant Recipient in connection with the Agreement, to the extent that such costs are substantiated to AVI.

36.4 AVI is not liable for any loss of profits or any other form of expectation loss arising out of, or in connection with, the termination or reduction in scope of this Agreement under this **Clause 36**.

37. Survival

37.1 The following clauses survive the termination and expiry of this Agreement:

Clause 288 (Insurance), **Clause 20** (Intellectual Property Rights), **Clause 277** (Indemnity), **Clause 311** (Fraud), **Clause 220** (Confidentiality), **Clause 21** (Client Use of Information), **Clause 233** (Privacy), **Clause 255** (Audits) and any other clause, which by their nature, survive the expiry of termination of this Agreement.

38. Notice

38.1 Any notice, demand, consent, approval, request or other communication to be given under this agreement (**Notice**) must be in writing and, unless this Agreement provides otherwise, in English and sent to the addresses for a party set out **Items 9** and **10** of the Grant Deed Details.

- (a) A Notice must be given by being:
 - (i) hand delivered;
 - (ii) sent by email (except where expressly excluded in this Agreement); or
 - (iii) sent by prepaid registered mail.
- (b) A Notice is given if:
 - (i) hand delivered, on the date of delivery;
 - (ii) sent by email and the sending party's electronic equipment reports that the email has been sent:

- A. before 5 pm on a Business Day, on that Day;
 - B. after 5 pm on a Business Day, on the next Business Day after it is sent; or
 - C. on a day that it is not a Business Day, on the next Business Day after it is sent, and the sender does not receive a delivery failure notice;
- (iii) sent by prepaid registered mail within Australia, on the earlier of the date that delivery is confirmed by the mail services provider or 5 Business Days after the date of posting.
- (c) For the avoidance of doubt and notwithstanding anything to the contrary in this clause, notification and communication by email:
- (i) is not valid where it relates to an actual or purported termination (so notice must be made via post or personal delivery in these circumstances, and a copy via email is acceptable);
 - (ii) is not permitted in those circumstances in which it is expressly excluded by the terms of this Agreement.

39. Entire Agreement

39.1 This Agreement constitutes the entire agreement between the Parties regarding the matters set out in it and supersedes any prior representations, understandings or arrangements made between the Parties, whether orally or in writing.

40. Waiver

40.1 A right created by this Agreement cannot be waived except in writing signed by the Party entitled to that right. Delay by a Party in exercising a right does not constitute a waiver of that right, nor will a waiver (either wholly or in part) by a Party of a right operate as a subsequent waiver of the same right or of any other right of that Party.

41. Severance

41.1 If any clause or part of any clause is in any way unenforceable, invalid or illegal, it is to be read down so as to be enforceable, valid and legal. If this is not possible, the clause (or where possible, the offending part) is to be severed from this Agreement without affecting the enforceability, validity or legality of the remaining clauses (or parts of those clauses) which will continue in full force and effect.

Schedule 1 Activity Proposal and Work Plan

Attach full Activity Proposal and Work Plan and Budget (if applicable)