

**Small Business Advisory Services Program
Funding Agreement
Between**

Commonwealth of Australia

as represented by the

**Department of Industry, Innovation, Science, Research
and Tertiary Education**

ABN 74 599 608 295

And

Recipient

ABN: XX XXX XXX XXX

In relation to funding for the provision of low cost business advisory services to small businesses located in Queensland that are directly or indirectly impacted by ex-Tropical Cyclone Oswald (and associated rainfall and flooding).

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Parties

The Commonwealth of Australia as represented by the Department of Industry, Innovation, Science, Research and Tertiary Education (the "Commonwealth")
of 10 Binara Street, Canberra ACT 2600

ABN 74 599 608 295

And

XXXXXXXXXXXXXXXXXX (The "Recipient")

of Street Address

ABN XX XXX XXX

Background:

A The Australian Government is committed to supporting the capacity of small businesses to compete in an open economy and support them in overcoming impediments to their development by providing advisory and information services to assist their sustainability, productivity and/or growth.

Small businesses are a vital part of the Australian economy, accounting for around 96 per cent of all businesses and about five million private sector jobs in Australia. By its nature the small business sector is dynamic, with large numbers of business start-ups and closures each year. The ability to access information, advice, knowledge and experience enhances the likelihood of businesses being able to achieve sustainability, productivity and/or growth.

In light of increasing pressures on businesses to adapt quickly to changes in their operating environment, the *Small Business Advisory Services program Queensland Natural Disaster Assistance (SBAS QNDA)* has been developed in response to ex-Tropical Cyclone Oswald (and associated rainfall and flooding). The *Small Business Advisory Services program Queensland Natural Disaster Assistance* will provide small businesses in Queensland, with access to low cost business advice, including tailored knowledge and advisory services to meet the needs of their businesses and providing referral services to government programs. The initiative is targeted towards improving management capability, business skills and / or financial management skills of participating small businesses in Queensland that are directly or indirectly impacted by ex-Tropical Cyclone Oswald (and associated rainfall and flooding).

B The Government announced a new round to eligible applicants, for example Business Enterprise Centres (BECs) and Registered Business Organisations (RBOs) through competitive, merit based funding round to provide high quality, low cost advisory services and targeted towards improving management capability, business skills and / or financial management skills of participating small businesses located in Queensland that are directly or indirectly impacted by ex-Tropical Cyclone Oswald (and associated rainfall and flooding).

The Parties Agree AS Follows:

1. Definitions and Interpretation

1.1 Definitions

In the Agreement, unless the contrary intention is apparent:

- (a) "Agreement" means the Agreement between the Parties and includes the schedules, annexure and attachments;
- (b) "Approved Auditor" means a person who is:
 - registered as a company auditor under the Corporations Act 2001 (Cth), or a member of the Institute of Chartered Accountants in Australia, CPA Australia or the National Institute of Accountants; and
 - not a principal, member, shareholder, officer or employee of the Recipient's or of a Related Body Corporate of the Recipient's;
- (c) "Authorised Officer" means
 - (i) The Recipient's Chief Executive Officer;
 - (ii) The Recipient's Chief Financial Officer; or
 - (iii) a person authorised by the Recipient to execute documents and legally bind the Recipient by their execution.
- (d) "Business Enterprise Centre" means an incorporated, not-for-profit body which provides low cost services to small businesses as part of an existing network of business advisory service providers
- (e) "Commencement Date" is the date of execution of this Deed;
- (f) "Commonwealth" means the Commonwealth of Australia as represented by the Department of, Industry, Innovation, Science, Research and Tertiary Education; its officers; employees; servants and authorised representatives;
- (g) "Confidential Information" means information that by its nature is confidential and a party knows or ought to know is confidential. Confidential Information does not include information that is or becomes public knowledge other than by breach of the Agreement and any other confidentiality obligation outlined within the Agreement;
- (h) "Control" has the meaning given by section 50AA of the Corporations Act 2001 (Cth);
- (i) "Correspondence" means a letter, email, or any other form of written communication agreed by the parties as acceptable.
- (j) "Department" is the Department of, Industry, Innovation, Science, Research and Tertiary Education, or such other body that may be responsible for the Agreement from time to time;
- (k) "Expiry Date" is **date to be inserted**; or 90 days from the project end date which ever is the latter.
- (l) "Funds" and "Funding" means the amount stipulated at item 1 of Schedule 2 of the Agreement;

- (m) "GST" has the same meaning as in the A New Tax System (Goods and Services Tax) Act 1999 (Cth);
- (n) "GST Law" has the meaning given to that expression by the A New Tax System (Goods and Services Tax) Act 1999 (Cth);
- (o) "LEADR" means the dispute resolution association with that name and the Australian Business Number 69 008 651 232.
- (p) "Minister" means the Minister for Small Business,
- (q) "Parties" means the Commonwealth and the Recipient;
- (r) "Program" means the Small Business Advisory Services program;
- (s) "Project" means services as specified in item 1.1 of Schedule 1;
- (t) "Project End Date" means **date to be inserted**, or any earlier date at which the Agreement is terminated according to clause 15;
- (u) "Project Event" means any significant milestone event that is intended to showcase the project and attract media attention;
- (v) "Project Period" means a period of time, as specified in Schedule 3;
- (w) "Recipient" means the organisation which is the recipient of this Funding, its officers, employees, servants, agents and subcontractors;
- (x) "Recipient Created Tax Invoice" has the meaning attributed in the GST Law;
- (y) "Registered Business Organisation" means an incorporated, not for profit body whose fundamental function is to provide business advisory services, including to small businesses;
- (z) "Repayment Event" means any of the events described in clause 5;
- (aa) "Schedule" means the schedules to the Agreement;
- (bb) "Significant Variation" means a material term of the Agreement that, in the opinion of the Commonwealth, is significant;
- (cc) "Small Businesses" are defined as businesses having less than twenty (20) full time (or equivalent) employees;
- (dd) "Specified Personnel" means the persons as named within Schedule 6 of the Agreement.
- (ee) "Specified Organisation" means the organisation or organisations as outlined within Schedule 6.
- (ff) "Taxable Supply" has the meaning attributed in the GST Law;
- (gg) "Termination Date" means the Expiry Date or any earlier date at which the Agreement is terminated according to clause 15; and
- (hh) "Term" means the period commencing on the Commencement Date and expiring on the Expiry Date, unless terminated earlier in accordance with the Agreement.

1.2 Interpretation

In the Agreement unless a contrary intention is expressed:

- i. headings are for convenient reference only and are not to be used in the interpretation of the Agreement ;
- ii. a word in the singular includes the plural and vice versa;
- iii. a word importing a gender includes any other gender;
- iv. a person includes a firm, a body corporate, an unincorporated association or an authority;
- v. all references to clauses are clauses in the Agreement , and all references to Schedules are schedules to the Agreement ;
- vi. all references to dollars are to Australian dollars and the Agreement uses Australian currency;
- vii. a reference to legislation, or any other law, includes regulations and other instruments made under it, and consolidations, amendments, re-enactments or replacements of any of them;
- viii. an uncertainty or ambiguity in the meaning of a provision of the Agreement will not be interpreted against a Party just because that Party prepared the provision;
- ix. where any word or phrase is given a defined meaning, any other part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.

1.3 Priority of documents

If there is inconsistency between any of the documents forming part of the Agreement, those documents will be interpreted in the following order of priority, to the extent of any inconsistency:

- (a) agreed terms;
- (b) Schedules; and then
- (c) any attachments to the Schedules.

2. Funds

2.1 Payment of funding

1) The Commonwealth

- (a) will subject to the terms and conditions of the Agreement, pay to the Recipient the sum specified in item 1 of Schedule 2
- (b) will pay the Funding to the Recipient in accordance with the requirements of item 1 of the Schedule 2.

2) The Recipient

- (a) acknowledges that the payment of Funding does not represent a precedent for future funding.

- (b) must ensure:
 - i. that the Funds are paid into and held in an account in the Recipient's name and sole control, with an authorised deposit-taking institution authorised under the Banking Act 1959 (Cth) to carry on banking business in Australia; and
 - ii. that if the account for the Funding changes, notify the Commonwealth with details of the new account in writing, within ten (10) business days of the change occurring.

2.2 Expenditure of Funding

- 1) The Recipient must only use the Funds:
 - (a) solely and specifically to carry out its obligations in relation to the Project as specified in Schedule 1;
 - (b) in accordance with the terms and conditions of the Agreement ; and
 - (c) as reasonably directed by, or with the approval of, the Commonwealth in accordance with the objective of the Project as specified in Schedule 1.
- 2) The Commonwealth may vary the Project, including the obligations of the Parties, provided such variation is in writing following consultation with the Recipient.
- 3) All interest earned on the Program Funds (as a proportion of the total interest earned on the total amount of Funds in the account that the Funds are held) becomes part of the Funding.
- 4) The Recipient must repay any Funds which are unexpended at the Project End Date, as specified in Schedule 3.
- 5) Any assets purchased or intellectual property developed through the valid expenditure of the Funds in accordance with the Agreement will belong to the Recipient.
- 6) The Recipient must not purchase, lease or otherwise acquire any item of property, either wholly or in part, with the Funds, which has a value of over \$2000 inclusive of GST, without the Commonwealth's prior approval, unless that item of property is expressly included as a budget item in schedule 2 of the Agreement. Approval may be given subject to any conditions the Commonwealth may impose.

3. Goods and Services Tax

- 1) Unless otherwise indicated, all consideration for any supply under the Agreement is exclusive of any GST imposed in relation to the supply.
- 2) If GST is imposed on any supply made by the Recipient to the Commonwealth under the Agreement, the Commonwealth will pay the amount imposed to the Recipient in addition to the consideration required under the Agreement.
- 3) If for any reason the Commonwealth pays to the Recipient an amount under clause 3(2) which is more than the GST imposed on the supply, the Recipient must repay the excess to the Commonwealth on demand, or the Commonwealth may set-off the excess against any other amounts due to the Recipient.
- 4) The Commonwealth is not liable to reimburse the Recipient for any amount in relation to which the Recipient may claim an input tax credit.

- 5) If GST is imposed on any supply made by the Recipient to the Commonwealth under the Agreement in return for all or any part of the Funding, the Commonwealth may issue a Recipient Created Tax Invoice to the Recipient for the supply in question and in that case the Recipient must not issue a tax invoice for that supply.
- 6) The Recipient and the Commonwealth are registered for GST at the time of entering into the Agreement. If for any reason the Recipient or the Commonwealth ceases to be registered for GST purposes, becomes aware of any reason why its registration may be cancelled, or ceases to satisfy any of the requirements of public ruling GSTR 2000/10, it must immediately notify the other Party.

4. Repayment

- 1) During the Agreement Period the Commonwealth is entitled to recover from the Recipient any amount of money which, at any time, in the Commonwealth's opinion, has been spent other than in accordance with this agreement.
- 2) After the end of the Project Period, the Commonwealth is entitled to recover from the Recipient:
 - (a) any Funds which have not been spent, or legally committed for expenditure by the Recipient in accordance with this agreement and payable by the Recipient as a current liability (written evidence of which will be required); and
 - (b) the amount of any Funds which, in the Commonwealth's opinion, have been spent other than in accordance with this agreement
 - (c) the amount of any Funds which, in the Commonwealth's opinion reflects an underperformance against key performance indicators as specified in schedule 1
- 3) The Recipient must:
 - (a) carry out its obligations under the Agreement as reasonably directed by the Commonwealth, from time to time, in accordance with the Agreement; and
 - (b) use the Funds for the Project, or as reasonably directed by the Commonwealth, from time to time, in good faith and probity.
- 4) If a Repayment Event as specified in clause 5 occurs, the Commonwealth may terminate the Agreement and require the Recipient to repay any amount of Funds which the Commonwealth deems appropriate as liquidated damages.
- 5) Any amount notified to the Recipient as owing to the Commonwealth in accordance with the Agreement, is a debt due to the Commonwealth under the Agreement, and is recoverable by the Commonwealth without further proof of the debt being necessary.
- 6) The Recipient shall immediately inform the Commonwealth upon the occurrence of a Repayment Event.
- 7) Nothing in this Clause prevents the Commonwealth from pursuing any other rights or remedies it may have, or becomes entitled to under the Agreement.

5. Repayment Events

The following are Repayment Events:

- (a) the Recipient is or states that the Recipient is unable to pay from the Recipient's own money all the Recipient's debts as and when they become due and payable;
- (b) the Recipient is taken or must be presumed to be insolvent or unable to pay its debts under any applicable legislation;
- (c) an application or order is made for the winding up, or dissolution, or a resolution is passed, or any steps are taken to pass a resolution, for the winding up or dissolution of the Recipient;
- (d) an administrator, provisional liquidator, liquidator or person having a similar or analogous function under the laws of any relevant jurisdiction is appointed in respect of the Recipient, or any action is taken to appoint any such person;
- (e) a receiver or receiver and manager is appointed in respect of any property of the Recipient;
- (f) the Recipient is deregistered under the Corporations Act 2001 (Cth) or notice of its proposed deregistration is given to the Recipient;
- (g) the Recipient enters into or takes any action to enter into an arrangement (including a scheme of arrangement or a deed of company arrangement), composition or compromise with, or assignment for the benefit of, all or any class of the Recipient's creditors, or members, or a moratorium involving any of them;
- (h) anything analogous to, or of a similar effect to anything described above, under the law of any relevant jurisdiction, occurs in respect of the Recipient;
- (i) a distress, attachment or execution is levied or becomes enforceable against any property of the Recipient;
- (j) the Recipient breaches any of its warranties under clause 7 of the Agreement; or
- (k) if the Recipient breaches any terms or conditions under the Agreement and fails to rectify such breach within a reasonable period specified in a notice by the Commonwealth in accordance with the Agreement.

6. Repayment notice

This clause 6 does not limit any other right or remedy of the Commonwealth.

- 1) The Commonwealth may give the Recipient a notice requiring the Recipient to repay to the Commonwealth (or deal with as specified by the Commonwealth) an amount which the Commonwealth is entitled to recover under clause 4.1 or 4.2 or 4.4.
- 2) If the Commonwealth gives a notice under clause 6.1, the Recipient must repay the amount specified in the notice in full (or deal with it as specified by the Commonwealth) within 30 days of the date of the notice.

7. The Recipient's Representations and Warranties

- 1) The Recipient represents and warrants to the Commonwealth that:
 - (a) all information that the Recipient provides to the Commonwealth from time to time (including any information provided as part of the application for Funding) is true and correct;

- (b) the Recipient has the power to enter into and comply with all its obligations under the Agreement, which are valid and binding against the Recipient in accordance with their terms;
 - (c) complying with the terms of the Agreement will not place the Recipient in breach of any law, duty, policy or other enforceable obligation;
 - (d) the Recipient is able to pay all its liabilities as and when they fall due; and
 - (e) the Recipient has not committed, and will not commit, any criminal activity under any Commonwealth, state or territory law.
- 2) The Recipient acknowledges that the Commonwealth has entered the Agreement on reliance of this clause 7.2, and warrants to comply with the following:
- (a) if the Recipient is, or becomes the recipient of funding for services related to the Project from any state or territory government department, authority or organisation during the Term, the Recipient shall inform the Commonwealth immediately;
 - (b) if the Recipient is, or becomes the recipient of funding for services related to the Project from any state or territory government department, authority or organisation during the Term, the Recipient shall at all times comply with the terms of that state or territory agreement;
 - (c) if the Recipient fails to comply with an agreement specified in clauses 7.2(a) and 7.2(b) resulting in the termination of that state or territory agreement, the Commonwealth may, at its sole discretion, terminate the Agreement immediately, pursuant to clause 15.1(c);
 - (d) if the Recipient is, or becomes the recipient of funding for services related to the Project from any state or territory government department, authority or organisation during the Term, and that agreement is varied in any way, by either party, to reduce the scope or funding under that agreement, the Commonwealth will, at its sole discretion, have the right to vary the Agreement to reduce the amount of Funding, or terminate the Agreement under clause 15.2(g); and
 - (e) if the Recipient is, or becomes the recipient of funding for services related to the Project from any state or territory government department, authority or organisation during the Term, the services related to the Project and provided by the Recipient must be in addition to any services funded by a state or territory agreement, and in accordance with the Objectives of the Project set out in item 1 of the Schedule 1.
- 3) If the Recipient becomes aware of a breach of any warranty under the Agreement, it must immediately notify the Commonwealth of that breach.
- 4) The Recipient must immediately notify the Commonwealth of any change in the Recipient's status or circumstances that may affect its ability to comply with the Agreement.
- 5) The Recipient acknowledges that it is a criminal offence under the Criminal Code to provide the Commonwealth with misleading or false information.
- 6) Except as expressly stated in the Agreement, the Recipient warrants that it is not entering into the Agreement as an agent for any other person, or as trustee of any trust, or on behalf of, or for the benefit of any other person.

- 7) The Recipient warrants that it will provide services related to the Project with due care and skill, diligently, effectively and to a high professional standard to any person.
- 8) The Recipient agrees that each of the above warranties and representations in this clause 7 survive the termination of the Agreement.

8. Subcontracting

- 1) The Recipient may engage subcontractors to undertake work in relation to the Project.
- 2) The Recipient will ensure that any subcontract entered into by the Recipient to carry out work in relation to the Project (and any subcontract entered into by a subcontractor of the Recipient) contains provisions equivalent to clauses 10, 11 and 20 of the Agreement.
- 3) The Recipient shall be fully responsible for the performance of its obligations under the Agreement, notwithstanding that it has subcontracted the performance of part or all of its obligations.
- 4) Subcontracting of any of the Recipient's obligation under the Agreement shall not affect the Recipient's liabilities under the Agreement.

9. Conflict Of Interest

- 1) The Recipient must, as soon as practicable, disclose to the Commonwealth in writing, all actual and potential conflicts of interest in the course of its execution and compliance with the Agreement.
- 2) The Recipient must not engage in activities that give rise to a conflict of interest, or may be perceived to give rise to a conflict of interest, in carrying out its obligations under the Agreement.
- 3) The Recipient undertakes to take all such reasonable steps required by the Commonwealth to remove any such actual or perceived conflict of interest.

10. Records and Reports

- 1) The Recipient will keep and require its subcontractors keep and maintain such records (including all receipts and invoices) necessary to provide a complete, detailed record of expenditure under the Agreement as required by the Commonwealth.
- 2) The Recipient will prepare and give to the Commonwealth the reports set out in Schedule 4 detailing how the Funds have been expended in accordance with the Agreement.
- 3) The Recipient shall:
 - (a) keep a record of contact details for all clients who access services related to the Project during the Project Period, including, but not limited to, name, address, ABN and email address;
 - (b) when requested, provide to the Commonwealth the information specified in this clause 10.3 for clients who agree to the provision of their information to the Commonwealth;
 - (c) ensure that the Recipient complies with its clause 21 obligations with regard to this clause 10.3, particularly in obtaining consent from clients using the form provided at Schedule 5 of the Agreement;

- (d) not withhold services under the Agreement to clients who do not consent to their information being provided to the Commonwealth.
- 4) The Recipient shall collect and provide to the Commonwealth any other information which the Commonwealth reasonably requests in order to assess and evaluate the Program and the Recipient's performance under the Agreement.
- 5) The Recipient shall retain all records and account books for at least thirty-six (36) months from the time of expiration or termination of the Agreement, and if requested during that time by the Commonwealth, shall promptly allow persons authorised by the Commonwealth, access to such records and account books.
- 6) The Recipient shall cooperate with the Commonwealth in any evaluation of the Program.

11. Audit and inspection

- 1) The Commonwealth or its nominated representative may at reasonable times and on reasonable notice enter the Recipient's premises and inspect the records kept by the Recipient, and review the compliance with the terms and conditions of the Agreement.
- 2) The Recipient must give the Commonwealth all necessary facilities and assistance to enable it to conduct a review under clause 11.1.
- 3) In conducting a review, the Commonwealth may take copies of any records that the Commonwealth considers relevant to the Agreement.
- 4) Without in any way affecting the statutory powers of the Auditor-General under the Auditor-General Act 1997 (Cth), and subject to the provisions of that Act, the Auditor-General is a person authorised for the purposes of clause 11.1

12. Insurance

- 1) In connection with compliance with the Agreement, the Recipient must have and maintain:
 - (a) for the Term, valid and enforceable insurance policies for:
 - i. workers' compensation as required by relevant legislation;
 - ii. professional indemnity to the minimum value of \$3 million per claim;
 - iii. public liability to the value of \$10 million per claim (or occurrence giving rise to a claim);and
 - iv. assets insurance (where applicable).
 - (b) for three (3) years following the expiry or termination of the Agreement, a valid and enforceable insurance policy for professional indemnity to the value specified in clause 12.1(a).
- 2) The Recipient must, on request by the Commonwealth, provide current and relevant confirmation of insurance documentation from its insurers or insurance brokers, certifying that it has insurance as required by clause 12.1.
- 3) The Commonwealth may terminate the Agreement if the Recipient does not comply with this clause 12.

13. Indemnity

- 1) The Recipient shall indemnify, and keep indemnified, the Commonwealth from and against all actions, proceedings, suits, claims and demands whatsoever which may be brought or made against the Commonwealth, by any person for or in respect of any financial loss or damage, physical injury to any person (including death) or loss of or damage to any property arising out of, or as a consequence of, any act or omission (including negligence) of the Recipient in the course of, or incidental to, the performance of obligations under the Agreement, and also from any costs and expenses that may be incurred in connection with any such action, proceeding, suit, claim or demand.
- 2) The Commonwealth accepts no liability for any loss, financial or otherwise, suffered or incurred by the Recipient in relation to the Agreement.

14. Dispute Resolution

14.1 No arbitration or court proceedings

If a dispute arises in relation to the conduct of the Agreement ("Dispute"), a Party must comply with this clause 14 before starting arbitration or court proceedings, except proceedings for urgent interlocutory relief or any proceeding that may arise under clauses 3(c), 6 or 15 of the Agreement. The Commonwealth reserves the right to start arbitration or court proceedings if a breach of these clauses occurs. After a Party has sought or obtained any urgent interlocutory relief a Party, except for an action arising under the stated clauses, must follow this clause 14.

14.2 Notification

A Party claiming a Dispute has arisen must give the other Parties to the Dispute notice setting out details of the Dispute.

14.3 Parties to resolve Dispute

During the fourteen (14) days after a notice is given under clause 14.2 (or longer period if the parties to the Dispute agree in writing), each Party to the Dispute must use its reasonable efforts through a meeting of the Parties to resolve the Dispute. If the parties cannot resolve the Dispute within that period, they must refer the Dispute to a mediator if one of them requests.

14.4 Appointment of mediator

If the Parties to the Dispute cannot agree on a mediator within seven (7) days after a request under clause 14.3, the chairperson of LEADR, or the chairperson's nominee, will appoint a mediator.

14.5 Role of mediator and obligations of parties

The role of a mediator is to assist in negotiating a resolution of the Dispute. A mediator may not make a binding decision on a party to the Dispute except if the Party agrees in writing. Unless agreed by the mediator and Parties, the mediation must be held within twenty-one (21) days of the request for mediation in clause 14.3. The Parties must attend the mediation and act in good faith to genuinely attempt to resolve the Dispute.

14.6 Confidentiality

Any information or documents disclosed by a party under this clause 14:

- (a) must be kept confidential; and
- (b) may only be used to attempt to resolve the Dispute.

14.7 Costs

Each Party to a Dispute must pay its own costs of complying with this clause 14. The Parties to the Dispute must equally pay the costs of any mediator.

15. Termination

15.1 Termination and Reduction for Convenience

The Commonwealth may at any time, by notice, terminate the Agreement or reduce the scope of the Project.

- (a) On receipt of a notice of termination or reduction the Recipient must:
 - i. take all available steps to minimise loss resulting from that termination or reduction; and
 - ii. continue to undertake any part of the Project not affected by the notice.
- (b) If the Agreement is terminated under this clause 15, the Commonwealth is liable only for:
 - i. payments under clause 1 in accordance with the Agreement before the effective date of termination; and
 - ii. reasonable costs actually incurred by the Recipient and directly attributable to the termination.
- (c) If the scope of the Project is reduced, the Commonwealth's liability to pay the Funds abates in accordance with the reduction in the Project.
- (d) The Commonwealth is not liable to pay compensation for an amount which would, in addition to any amounts paid or due, or becoming due, to the Recipient under the Agreement, exceed the total Funds payable under the Agreement.
- (e) The Recipient is not entitled to compensation for loss of prospective profits.

15.2 Immediate termination

The Commonwealth may immediately terminate the Agreement by notice to the Recipient if:

- (a) any events identified in clause 5 occurs in relation to the Recipient;
- (b) the Recipient ceases to carry on business, or a substantial part of its business;
- (c) the Recipient breaches any warranty contained in clause 7, in particular but without limiting the generality of this clause, clauses 7.1 and 7.2 of the Agreement;
- (d) there is a change in control or ownership of the Recipient, without the Commonwealth's consent, which the Commonwealth reasonably considers has an adverse effect on the Recipient's ability to comply with any of its obligations under the Agreement;
- (e) the Recipient commits any breach in respect of which the Agreement provides (other than clause 15.2) a notice of termination may be given;
- (f) the Recipient commits any breach which the Commonwealth reasonably considers is not capable of remedy; or

- (g) the Recipient is the recipient of funding under a state or territory agreement, and the scope of services or amount of funding related to the project under that state or territory agreement is reduced.

15.3 Termination following notice

The Commonwealth may terminate the Agreement by notice to the Recipient, if the Recipient is in breach of the Agreement, that breach is capable of being remedied, and the Recipient fails to remedy the breach within twenty-eight (28) days of receiving notice from the Commonwealth requiring it to do so (or any longer period specified in the notice).

15.4 Mutual Termination

The Agreement may be terminated at any time by the mutual written agreement of the Parties.

15.5 Consequences of termination

If the Agreement is terminated under this clause 15:

- (a) the Parties are relieved from future performance of the Agreement, without prejudice to any right of either Party which accrued prior to the date of termination or otherwise relates to, or may arise at any future time, from any breach or non-observance of obligations under the Agreement which arose prior to that date;
- (b) the Recipient must give the Commonwealth all outstanding reports due under the Agreement and any reports that would have been required at the end of the Agreement, unless not required by the Commonwealth; and
- (c) the Commonwealth may (acting reasonably) by notice to the Recipient, pursuant to clause 5 of the Agreement, require the Recipient to repay so much of the Funding as the Commonwealth reasonably determines, having regard to the nature and effect of the breach.

To avoid doubt, a repayment notice under clause 15.5(c) may be given to the Recipient at the same time as the termination notice, or within a reasonable time after the date of termination of the Agreement.

16. Confidentiality

- 1) Subject to clause 16.2, the Commonwealth agrees not to disclose any of the Recipient's Confidential Information to a third party without the Recipient's written consent.
- 2) The Recipient agrees not to disclose any of the Commonwealth's Confidential Information to a third party without the Commonwealth's written consent.
- 3) The Commonwealth will not be taken to have breached its obligations under clause 16.1 to the extent that the Commonwealth discloses Confidential Information:
 - (a) to its officers, employees, agents, external professional advisers or contractors solely to comply with obligations, or to exercise rights, under the Agreement;
 - (b) to its internal management personnel solely to enable effective management or auditing of Agreement-related activities;
 - (c) for a purpose directly related to the enforcement or investigation of a possible breach of any Commonwealth, state, territory or local law;

- (d) to its responsible Minister, or in response to a demand by a House or a Committee of the Commonwealth Parliament;
- (e) within the Department or another government agency or authority, where this serves the Department's or the Commonwealth's legitimate interests;
- (f) as required or permitted by any other law, or an express provision of this deed, to be disclosed; or
- (g) that is in the public domain, other than due to a breach of this clause 16.

17. Acknowledgements and Public statements

- 1) The Recipient must acknowledge the Funding and the Program in any public statements about its activities related to the Project made during the Term of the Agreement, as set out in item 6 of Schedule 4.
- 2) The Commonwealth may publicise the awarding of the Funding at any time after it is awarded.
- 3) The Commonwealth may include in press releases and general announcements about the Funding and in its annual report, the following information:
 - (a) the name of the Recipient;
 - (b) the amount received by the Recipient; and
 - (c) information about the Project.
- 4) The Recipient agrees to participate in all promotional, publicity and educational activities in relation to the Program as reasonably required from time to time by the Commonwealth.

18. No Agency or Partnership

- 1) The Parties acknowledge and agree that nothing in the Agreement constitutes:
 - (a) a partnership or joint venture of any kind between the Parties; or
 - (b) any relationship of employer and employee, or principal and agent, between the Commonwealth and the Recipient.
- 2) Neither Party has any authority to bind the other in any manner except with the express authority by written notice of the other Party.
- 3) The Recipient will not do an act which may cause a third party to believe there exists any of the relationships specified in clause 18.1.

19. Notice

- 1) Any notice to be given or served pursuant to this deed must be in writing and addressed and signed as the case may be, as specified in Schedule 8 or as may have been communicated by the relevant Party from time to time.
- 2) A notice must be delivered by hand, sent by prepaid post, transmitted electronically or transmitted by facsimile.
- 3) A notice will be deemed to be received:
 - (a) if delivered by hand, upon delivery;

- (b) if sent by pre-paid ordinary post within Australia, upon the expiration of two (2) business days after the date on which it was sent; and
- (c) if transmitted electronically or by facsimile, upon receipt by the sender of an electronic or facsimile acknowledgment that the communication has been properly transmitted to the recipient.

20. Compliance with Law and Commonwealth Policies

- 1) The Recipient must, in carrying out its obligations under the Agreement and in conducting the Project, comply with:
 - (a) all relevant statutes, regulations, bylaws, and requirements of the Commonwealth and any state, territory or local authority;
 - (b) the Integrity Principles set out in Schedule 7; and
 - (c) any other policies of the Commonwealth as notified from time to time.
- 2) The Recipient must ensure that any person providing any advice or other service as part of the delivery of the Project:
 - (a) obtains and maintains the appropriate and necessary professional, educational and vocational qualifications and certifications (if any), including those required by any law or industry body (if any). The Recipient must, upon request, provide the Commonwealth with evidence of all qualifications and certifications required to be obtained and maintained under this clause 20.2;
 - (b) complies with clause 20.1.

21. Personal information

- 1) This clause applies only where the Recipient deals with personal information in circumstances which relate to the provision of services which are funded under the Agreement.
- 2) The Recipient agrees:
 - (a) to use or disclose personal information only for purposes related to the provision of services funded under the Agreement, and provided the use or disclosure is consistent with the other provisions of this clause;
 - (b) not to do any act or engage in any practice that would breach an Information Privacy Principle (IPP) contained in the Privacy Act 1988 (Cth), which if done or engaged in by an agency, would be a breach of that IPP;
 - (c) to carry out and discharge the obligations contained in the IPPs as if it were an agency under that Act;
 - (d) not to use or disclose personal information in a way that would breach section 16F of the Privacy Act 1988 (Cth); and
 - (e) not to breach a National Privacy Principle or an approved privacy code (where such code is applicable to the Recipient).
- 3) The Recipient agrees to ensure that any contract entered into for the purpose of providing the services funded under the Agreement, contains provisions to ensure that the contractor has the same awareness and obligations as the Recipient has under this clause.

- 4) The provisions of this clause survive termination or expiration of the Agreement.

22. Ownership and Intellectual Property Rights

22.1 Commonwealth material

Unless otherwise notified to the Recipient, ownership of all material provided to the Recipient by the Commonwealth for the purposes of this Agreement, including Intellectual Property Rights in that material, remains vested at all times in the Commonwealth but the Commonwealth grants the Recipient a licence to use, copy and reproduce that material only for the purposes of this Agreement.

22.2 Ownership

Subject to this clause 22, the Recipient owns the material created under this Agreement and the Intellectual Property Rights in that material immediately on their creation subject to any third party rights and interests.

22.3 Licences

The Recipient must grant to the Commonwealth (or arrange for the grant to the Commonwealth) a permanent, irrevocable, free, world wide, non-exclusive licence (including a right of sublicense) to use, reproduce, adapt and exploit the Intellectual Property Rights in any material the Recipient is required to provide to the Commonwealth under this Agreement.

If the Recipient is unable to grant a licence to the Commonwealth in some of the material in terms of clause 22.4 because of third party rights and interests in that material (third party material), the Recipient must notify the Commonwealth of this in writing and agree with the Commonwealth on the terms of a licence in the third party material. If no agreement is reached the Recipient must not include the third party material in material it is required to provide to the Commonwealth under this Agreement. For the avoidance of doubt, nothing in this clause relieves the Recipient of its obligations to the Commonwealth under any other part of this Agreement.

22.4 Copies of Material

If requested by the Commonwealth, the Recipient must provide the Commonwealth, in the form requested by the Commonwealth, with a copy of the material created or used by the Recipient in carrying out its obligations under this Agreement.

23. General

23.1 No Assignment by the Recipient

The Recipient shall not assign, in whole or in part, its benefits or obligations under the Agreement without the prior written approval of the Commonwealth.

23.2 Waiver by the Commonwealth

- (a) The Commonwealth may only be taken to have waived a right under the Agreement, if the waiver is by written notice to the Recipient.
- (b) A waiver by the Commonwealth in respect of any breach of a condition or provision of the Agreement shall not be deemed to be a waiver in respect of any other or of any subsequent breach.

23.3 Variation

- (a) A Significant Variation of the Agreement must be evidenced by a Deed of Variation.

- (b) Schedules 6 and 8 of the Agreement may be varied in writing with the consent of the Commonwealth. The variation is to be evidenced by Correspondence showing that the Commonwealth approves of the replacement of the Specified Personnel, Specified Organisations and address for notices.

23.4 Counterparts

The Agreement may be executed in counterparts. All executed counterparts constitute one document.

23.5 Severability

A term or part of a term of the Agreement that is illegal or unenforceable may be severed from the Agreement and the remaining terms or parts of the terms of the Agreement continue in force.

23.6 Governing Law

The Agreement shall be governed by and construed in accordance with the law for the time being in force in the Australian Capital Territory.

23.7 Entire Agreement

The Agreement constitutes the entire agreement between the Parties in connection with its subject matter and supersedes all previous agreements or understandings between the parties in connection with its subject matter.

23.8 Survival

The following clauses will remain in full force and effect, and will survive the expiry or early termination of the Agreement:

- (a) Clause 4 (Repayment);
- (b) Clause 5 (Repayment Events);
- (c) Clause 10 (Records and Reports);
- (d) Clause 11 (Audit and Inspection);
- (e) Clause 12 (Insurance);
- (f) Clause 13 (Indemnity);
- (g) Clause 15 (Termination);
- (h) Clause 16 (Confidentiality)
- (i) Clause 21 (Personal Information);
- (j) Clause 22 (Intellectual Property)
- (k) Clause 23.6 (Governing Law); and
- (l) Clause 23.8 (Survival).

Schedule 1 – Project

1 Objectives of the Project

- 1.1 The objective of the SBAS program is to maximise the sustainability, productivity and/or growth potential of the participating small businesses through access to low cost business advisory services. As applicable, this initiative aims to improve the business and/or financial management skills of participating small businesses.

Funding is provided for eligible organisations such as Business Enterprise Centres and Registered Business Organisations to provide small business operators in Queensland that are directly or indirectly impacted by ex-Tropical Cyclone Oswald (and associated rainfall and flooding) with access to low cost business advice including tailored knowledge and advisory services to meet the needs of their businesses and providing referral services to government programs in order to improve management capability, business skills and / or financial management skills of participating small businesses.

The funding is to supplement and not replace existing Recipient funding arrangements from other sources.

It is expected that the advisory services to be offered to small businesses will be:

- **focused** on providing business advisory skills for participating small businesses and those who intend to start or have purchased an existing small business
- **relevant**, providing business advisory services that will contribute to maximising the innovation, sustainability, productivity and/or growth potential of the participating small businesses.

And may include the following:

- Business Management Skills: This may include advice on general business management including human resources, Work and Health Safety, Intellectual Property, legal issues, supply-chain management, e-commerce take-up and the use of information technology and broadband.
 - Financial Management Skills: This may include advice on accounting practices, cash flow, guidance on available banking and finance products, leasing guidance and credit management.
 - Business Planning Advice: This may include a diagnostic assessment of individual small businesses, followed by business planning advice that meets the needs of small businesses incorporating things such as business continuity, succession planning and marketing plans.
 - Mentoring and Networking for Business: This may include one-on-one, group sessions and networking opportunities for small businesses.
 - General Business Advice: This may include providing advice and tailored knowledge to small businesses, including recommendations about government programs and regulatory compliance. Recipients will be required to promulgate information about business support measures, on behalf of the Australian Government.
- **practical** and be oriented towards action learning for participants to build business skills and/or organisation capability, and may include mentoring.

- **flexible**, delivered in a manner that suits the needs of participant small businesses. The business advisory services will cater for the specific needs of women and other client groups as appropriate.

1.2 Without limitation, funded projects must provide small business owners with access to low cost advice.

2 Project Requirements

2.1 The Recipient must ensure that in delivering the Project:

- all services funded under the Program are of a high quality;
- the Recipient, and any Contractors engaged by the Recipient, act in an ethical manner at all times;
- information disclosed by a small business owner or manager is kept confidential, and that any of the Recipient's contractors, employees, agents, officers or Mentors keep that information confidential; and
- the Recipient does not, and will not, have any involvement in the day to day running of the participating small businesses, and that any of the Recipient's contractors, employees, agents, officers or Mentors do not, and will not, have any involvement in the day to day running of the participating small businesses.

2.2 In delivering the Project, the Recipient must not, and must ensure that any of the Recipient's contractors, employees, agents, officers or Mentors do not, take any interest in, or obtain any ownership or license of, the intellectual property rights in, or relating to, the participating small businesses and the activities associated with those small businesses.

3 The Project

3.1 In addition to the requirements set out in item 2 of this Schedule 1, the Recipient agrees to undertake the following Project:

- [Project Title.](#)
- [Summary of project.](#)
- X** represents the total number of small businesses that will be assisted during the period of the funding agreement
- Unless otherwise directed, the recipient must carry out the Project in the following region/area or to the following industry sectors:

Region / Area / Sector
details to be inserted

3.2 The Project shall be delivered in accordance with Schedule 3 of the Agreement.

Schedule 2 - Funding and Budget

1 Funding

- 1.1 The total Funding for the Project is \$xxxxx inclusive of GST which represents \$xxxxx ex-GST, the amount of Funding to be provided by the Commonwealth for the Project, and \$xxxxx GST Amt, being the total GST payable in accordance with clause 3.

Details of funding payment schedule to be inserted.

2 Limits on use of Funding

- 2.1 The Recipient must not (without the prior written consent of the Commonwealth) use any Funding for, and must ensure that the Project does not concern or otherwise deal with, any of the following activities:

- **Counselling services:** Funding for the *SBAS program* will not support counselling. There are already services which are being supported by the Australian Government such as Beyond Blue, Red Cross and the Salvation Army. Small businesses or small business owners requiring counselling will need to be referred to these or similar organisations.
- **Technical and vocational training:** Funding for the *SBAS program* will not support technical or vocational training relating to the conduct of the business activity.
- **Research activities and feasibility studies:** Funding for the *SBAS program* will not support applications that involve the conduct of research or feasibility studies.
- **The production of study guides, reports:** Funding for the *SBAS program* will not support applications which relate only to the development and publication of study guides, manuals, instructional videos/web content and/or reports or information kits. However, this does not preclude the production of publications to support the delivery of the project/services.
- **Activities involving school students:** As the focus of funding under the *SBAS program* is to assist established or intending small businesses, funding will not support activities involving training, or any form of formal (secondary or post-secondary) education for non business owners.
- **Participation at other conferences/seminars:** Funding under the *SBAS program* will not provide assistance for individuals/groups to attend conferences or seminars being run independently of the project covered by the funding, either in Australia or overseas. However, this does not preclude the running of project activities in conjunction with a conference or seminar in the organisation's area.
- **Overseas travel:** Funding under the *SBAS program* will not support any request involving funding for overseas travel.
- **Staff Training:** Funding under the *SBAS program* will not support any activities to develop the professional or other skills of the applicant organisation, the applicant's employees or any subcontractors. There is an expectation that the applicant organisation will have the necessary skills.
- **Membership fees:** Funding under the *SBAS program* will not support any request involving the use of funding for membership fees.

3 Budget

3.1 The Recipient agrees:

- (a) that the following Budget table provides an indication of how the Recipient intends to spend the project Funding over Project Period; and
- (b) to inform the Commonwealth of what the Recipient deems to be any major deviations, planned or actual, from any budget presented.

3.2 Without limitation to clause 2 of this agreement the Recipient may expend the Funding in accordance with the budget (as identified schedule 2, item 3.3). At the end of the Project Period, the Recipient will be required to provide the Commonwealth with certification from the Chief Executive Officer, that all expenditure has been incurred solely for the purposes of this Program.

3.3 The Budget Table:

Salaries	SBAS Funding (Ex GST)
Management	details to be inserted
Office Administrators	details to be inserted
Business Advisors	details to be inserted
Consultants	details to be inserted
Other –	details to be inserted
	details to be inserted
Total Salaries	details to be inserted

Travel Costs	SBAS Funding (Ex GST)
Mileage allowance	details to be inserted
Accommodation	details to be inserted
Other	details to be inserted
Total Travel Costs	details to be inserted

Infrastructure	SBAS Funding (Ex GST)
Office space	details to be inserted
Other	details to be inserted
Total Infrastructure	details to be inserted

Marketing	SBAS Funding (Ex GST)
Promotional material	details to be inserted
Advertising	details to be inserted
Other	details to be inserted
Total Marketing	details to be inserted

Administration	SBAS Funding (Ex GST)
General office supplies	details to be inserted
Venue hire	details to be inserted
Utilities for additional office space	details to be inserted
Other	details to be inserted
Total Administration	details to be inserted

Other - Please identify	SBAS Funding (Ex GST)
details to be inserted	details to be inserted
details to be inserted	details to be inserted
Total "Other"	details to be inserted

Budget total		Total \$
	Total (Ex Gst)	details to be inserted
	GST	details to be inserted
	Total (inc GST)	details to be inserted

3.4 The Recipient may transfer up to 10% only of the total Funds provided by the Commonwealth between the categories of expenditure, without the Commonwealth's prior approval.

SAMPLE

Schedule 3 – Project Reporting

1 Project Period

- 1.1 The Project activities commence on the Commencement Date.
 1.2 The Project activities end on **insert date**, the Project End Date.

2 Project reporting dates

Report Type	Reporting period start date	Reporting period end date	Report due date
Progress report 1	Commencement date	details to be inserted	details to be inserted
Progress report 2	details to be inserted	details to be inserted	details to be inserted
Progress report 3	details to be inserted	details to be inserted	details to be inserted
Progress report 4	details to be inserted	details to be inserted	details to be inserted
End of Financial Year Statement	Commencement date	details to be inserted	details to be inserted
Progress report 5	details to be inserted	details to be inserted	details to be inserted
Progress report 6	details to be inserted	details to be inserted	details to be inserted
Progress report 7	details to be inserted	details to be inserted	details to be inserted
Progress report 8	details to be inserted	Project end date	21 days from project end date
Final report and Final Audit report	Commencement date	Project End Date	60 days from project end date

* all reporting must be completed in the templates provided by AusIndustry.

Schedule 4 - Reports and Publicity

1 Reports

- 1.1 The Reports required under clauses 2, 3, 4 and 5 of this Schedule must be in a form and content as reasonably required by the Commonwealth and notified to the Recipient from time to time.
- 1.2 All Reports must be satisfactory to the Commonwealth. If the Commonwealth is not satisfied with any Report, or any part of a Report, provided by the Recipient the Commonwealth can reject the Report, or any part of the Report, and require the Recipient to resubmit that Report, or the relevant part of that Report, at the Recipient's expense.
- 1.3 The Commonwealth may from time to time request Reports in addition to those required under items 2, 3, 4 and 5 of this Schedule.

2 Progress Reports

- 2.1 The Recipient must, by the dates specified at Schedule 3.2, provide the Commonwealth with progress reports detailing:
 - (a) the overall progress of the project against the funding agreement for the relevant reporting period and including but not limited to:
 - a summary of the expenditure of funds during the relevant reporting period
 - the number of businesses assisted by industry category
 - the number of services provided by service categories;
 - geospatial data describing the location of businesses assisted
 - data on mentoring and networking events
 - the record of client contact details collected under clause 10.3
 - commentary regarding specific local and regional issues affecting small businesses; and
 - (b) Any request of the Commonwealth in accordance with clause 10.4.

3 End of Financial Year financial statement

- 3.1 The Recipient must, within 30 days of 30 June 2013, provide the Commonwealth with a report which contains:
 - (a) a detailed statement of receipts and expenditure in respect of the Funding, which must include an statement as to whether the financial accounts are complete and accurate, and a statement of the balance of the Recipient's account referred to in clause 2.1(2)(b)i;
 - (b) a certificate, provided by an Authorised Officer, that all Funding received was expended for the purpose of the Project and in accordance with the Agreement;

4 Final Report

- 4.1 The Recipient must provide the Commonwealth with a final report within sixty (60) days of the Project End Date or on the earlier termination of the Agreement. This report will provide comment on how the project has met the *SBAS program* objective and may include, but is not limited to:
 - commentary on how the funding recipient conducted the project
 - how access to low cost business advisory services in the region/area/sector has contributed to the innovation, sustainability, productivity and/or growth of participating small businesses
 - and improved the business and/or financial management skills of participating small businesses

5 Audit Report

- 5.1 The Recipient must, within sixty (60) days of the Project End Date, or on the earlier termination of the Agreement, provide the Commonwealth with a report including:
- (a) an audited detailed statement of receipts and expenditure in respect of the Funding, which must include an unqualified statement as to whether the financial accounts are complete and accurate, and a statement of the balance of the Recipient's account referred to in clause 2.1(2)(b);
 - (b) an unqualified and audited statement to the effect that the Funding was only expended for the purpose of conducting the Project and in accordance with the Agreement;
 - (c) a certificate, that:
 - i. all Funding received was expended for the purpose of the Project and in accordance with the Agreement; and
 - ii. salaries and allowances paid to persons involved in the Project are in accordance with any applicable award or agreement in force under any relevant law on industrial or workplace relations.
- 5.2 The audited report referred to in clauses 5.1(a) and 5.1(b) of this Schedule 4 must be prepared according to the Australian Auditing Standards, and must be carried out by an Approved Auditor.
- 5.3 The certificate referred to in clause 5.1(c) of this Schedule 4 must be provided by an Authorised Officer.

6 Program Evaluation and Post Project Reporting

- 6.1 At any time, and for up to thirty-six (36) months after the completion of the Project or up to 3 years after the end of the Project Period, the Commonwealth may request additional information from the Recipient for the purposes of any review that the Commonwealth may undertake of the Program. An evaluation may seek to identify the degree to which the program is meeting its objectives and evaluate the project's impact on small businesses. Pursuant to clause 10 of the Agreement, the Recipient must comply with any such reasonable request the Commonwealth makes.

7 Acknowledgement and Publicity

- 7.1 Any advice, project, service or initiative that the Recipient provides using any Funding must be branded as an Australian Government initiative for small business under the Program. In all publications, advertising and promotional materials, public announcements, public disclosures and other activities relating to the Project (including stationery and any website presence) the Recipient must acknowledge the financial support the Recipient has received from the Australian Government. Without limitation:
- (a) the giving of any advice or other service or initiative which forms part of the Project must be identified as services which are funded by the Australian Government; and
 - (b) in all written materials and websites related to the Project the Recipient must include the words '*The services provided by "Recipient" are funded by the Australian Government.*'.

- 7.2 Before the Recipient undertakes, or participates in any way in, a Project Event, the Recipient must first obtain the Commonwealth's consent to the proposed Project Event. The consent process for a proposed Project Event is as follows:
- (a) at least forty-nine (49) days before the proposed date for the proposed Project Event, the recipient must submit all details of the proposed Project Event to the Commonwealth. These details must include:
 - i. the date and time of the proposed Project Event;
 - ii. the subject matter of the proposed Project Event;
 - iii. details of the activities which will take place in conjunction with the proposed Project Event;
 - iv. details of any person who will be speaking at the proposed Project Event;
 - v. details of any State or Territory Government bodies that should be advised of the proposed Project Event; and
 - vi. details of those personnel who will be invited to attend the proposed Project Event;
 - (b) within twenty-eight (28) days of receiving Your submission under clause 7.2(a) the Commonwealth will advise You of whether:
 - i. the Commonwealth consents to the Recipient undertaking or participating in the proposed Project Event;
 - ii. the Commonwealth does not consent to the Recipient undertaking or participating in any way in the proposed Project Event; or
 - iii. the Commonwealth consent to the Recipient undertaking or participating in the Project Event subject to the Recipient complying with conditions imposed by the Commonwealth. For the avoidance of doubt, these conditions may deal with any aspect of the proposed Project Event including the date, time, subject matter, invitees and speakers;
 - (c) If the Recipient has not received a response from the Commonwealth in accordance with clause 7.2(b), and the Recipient has otherwise complied with the Agreement, then the Recipient may undertake the proposed Project Event provided that the proposed Project Event is still to be held in accordance with the details submitted under clause 7.2(a).
- 7.3 If the details of the proposed Project Event change from the details notified to the Commonwealth under clause 7.2(a) before the Project Event is held, then, whether or not the Recipient have received a response from the Commonwealth in accordance with clause 7.2, the Recipient must tell the Commonwealth as soon as possible and the Commonwealth will advise the Recipient of whether the Recipient may undertake or participate in the proposed Project Event.
- 7.4 If required by the Commonwealth, the Recipient must allow a person nominated by the Commonwealth to take part in the proposed Project Event. This may include allowing that person to speak at, or play any role (including an integral role), in the relevant proposed Project Event.

Schedule 5 – Client Consent Form

Consent to Provision of Client Contact Details to the Department of Industry, Innovation, Science, Research and Tertiary Education

The services provided by [Recipient Name](#) are funded by the Australian Government through the Department of Industry, Innovation, Science, Research and Tertiary Education.

As part of the Australian Government's efforts to evaluate the effectiveness of the services provided by [Recipient Name](#), and to seek areas for improvement in their services, the Australian Government has requested the contact information of clients who access the funded services.

Your contact information will only be used to provide you with evaluation surveys about the services provided to you by [Recipient Name](#).

The Department of Industry, Innovation, Science, Research and Tertiary Education will keep your contact details protected, in line with the Information Privacy Principles contained in the *Privacy Act 1988*, and we will only use your details for the purpose of conducting surveys in regard to the *Small Business Advisory Services* program. Such a survey may be carried out by a reputable market research organisation which would be contractually bound to the Information Privacy Principles contained in the *Privacy Act 1988* as if they were part of the Department.

The results of any survey will be aggregate data and will not be capable of identifying you or your organisation individually.

Please note that participation in the evaluation of the services provided by [Recipient Name](#) is not mandatory and will not affect your eligibility for services under the *Small Business Advisory Services* program. You may withdraw your consent to participate in the evaluation of the *Small Business Advisory Services* program at any time by contacting [Recipient Name](#).

I consent to the provision of my contact details to the Department of Industry, Innovation, Science, Research and Tertiary Education for the purpose of including me in any survey, in order to evaluate the *Small Business Advisory Services* program.

Signature of client:

Name of Client:
(please print)

Date:

Schedule 6 - Specified Personnel and Specified Organisations

Specified Personnel

Project manager	Details
Name	details to be inserted
Organisation	details to be inserted
Role in Organisation	details to be inserted
Postal address	details to be inserted
Telephone	details to be inserted
Mobile number	details to be inserted
Fax number	details to be inserted
Email address	details to be inserted
Qualifications and skills summary relevant to the project	details to be inserted

Other specified personnel	Activities to be undertaken and qualifications and skills relevant to the Project
details to be inserted	details to be inserted
details to be inserted	details to be inserted
details to be inserted	details to be inserted
details to be inserted	details to be inserted

Specified Organisations

Specified organisations (consultants)	Activities to be undertaken and expertise and/or track record relevant to the project
details to be inserted	details to be inserted
details to be inserted	details to be inserted
details to be inserted	details to be inserted
details to be inserted	details to be inserted

Schedule 7 - Integrity Principles

In dealings with others, including the Commonwealth, the Recipient must at all times:

- (a) behave honestly and with integrity;
- (b) acquit the Recipient's contractual responsibilities with due care and diligence;
- (c) comply with all applicable Australian laws. For this purpose, Australian law means:
 - i. any Commonwealth Act or instrument made under an Act, including without limitation the:
 - (A) *Equal Opportunity for Women in the Workplace Act 1999* (Cth);
 - (B) *Racial Discrimination Act 1984* (Cth);
 - (C) *Sex Discrimination Act 1984* (Cth);
 - (D) *Disability Discrimination Act 1992* (Cth);
 - (E) *Criminal Code*, including clause 137.1 of the *Criminal Code* which makes it an offence for a person to provide false or misleading information to the Commonwealth;
 - (F) *The Work Health and Safety Act 2011* (Cth)
 - (G) *Privacy Act 1988* (Cth); and
 - ii. any law of a State or Territory, including any such instrument made under such a law;
- (d) ensure that it and its staff, personnel, other workers and subcontractors:
 - i. undertake the Project in a safe manner;
 - ii. if using or accessing the Commonwealth's premises or facilities, comply with all reasonable instructions, directions and procedures relating to work health and safety in operation at those premises or facilities whether specifically drawn to the attention of the Recipient or as might reasonably be inferred from the circumstances; and
 - iii. do not, by act or omission place the Commonwealth in breach of its obligations under the *Work Health and Safety Act 2011* (Cth);
- (e) be courteous and helpful to all customers, small business operators and departmental representatives;
- (f) provide accurate and reliable information to customers, small business operators and departmental representatives where required;
- (g) respect and comply with all relevant privacy and confidentiality obligations;
- (h) avoid behaviour that may be characterised as undue influence or favouritism, whether actual or perceived;
- (i) avoid collusive and unfair practices; and
- (j) disclose, and take reasonable steps to avoid, real or apparent Conflicts of interest where they arise.

It is particularly important that the Recipient act in a manner that promotes confidence in the Project and the Program. Accordingly, during the period of the Agreement the Recipient must not:

- (a) take an equity position in a customer's or small business operator's business; or
- (b) make improper use of inside information or Confidential Information in order to gain, or seek to gain, a benefit or advantage for any person.

Schedule 8 - Addresses for Notices

1 Commonwealth Address for Notices

1.1 Commonwealth address for notices is:

The Program Manager

Small Business Programs

AusIndustry

Department of Industry, Innovation, Science, Research and Tertiary Education

GPO Box 9839

CANBERRA ACT 2601

Email: sbas@innovation.gov.au

2 The Recipient's Address for Notices

2.1 The Recipient's address for notices is:

Name: [details to be inserted](#)

Position: [details to be inserted](#)

Address: [details to be inserted](#)

Phone: [details to be inserted](#)

Email: [details to be inserted](#)

THE AGREEMENT is made on the _____ day of _____

Executed by the parties.

Signed for and on behalf of the
Commonwealth of Australia represented by
and acting through the Department of
Industry, Innovation, Science, Research and
Tertiary Education
ABN 74 599 608 295 by its delegate:
in the presence of:

Signature of delegate

Signature of witness

Title of delegate

Name of witness (block letters)

Name of delegate (block letters)

Note: Recipients are to CHOOSE ONE execution clause that applies to their organisation and **delete** the rest.

1. If the Funding Recipient is signing under the Corporations Act, use the 1st execution clause.
2. If the Funding Recipient is signing under common seal, use the 2nd execution clause.
3. If the Funding Recipient is signing through an authorised signatory, use the 3rd execution clause.
4. If the Funding Recipient is an incorporated association used the 4th execution clause.

Executed by Recipient Name in accordance
with section 127(1)(a) of the *Corporations
Act 2001* (Cth) by authority of its directors:

Signature of director

Signature of director/company secretary*
*delete whichever is not applicable

Name of director (block letters)

Name of director/company secretary* (block
letters)
*delete whichever is not applicable

Or

The common seal of **Recipient Name** is duly affixed by authority of its directors in the presence of:

Signature of authorised person

Signature of authorised person

Office held

Office held

Name of authorised person (block letters)

Name of authorised person (block letters)

Or

Signed by **Insert Name** as authorised representative for **Recipient Name** in the presence of:

Signature of witness

Signature of authorised person

Name of witness (block letters)

Name of authorised person (block letters)

By executing the Agreement the signatory warrants that the signatory is duly authorised to execute the Agreement on behalf of **Recipient Name**

Or

The common seal of **Recipient Name** is duly affixed in accordance with its Constitution in the presence of:

Signature of authorised person

Signature of authorised person

Office held

Office held

Name of authorised person (block letters)

Name of authorised person (block letters)