

EMERGENCY SPORTING EQUIPMENT GRANTS PROGRAM 2023-24

CONDITIONS OF GRANT

1. The Agreement

- a. The Application constitutes an offer by the Applicant to the Department. In the event the Department accepts the Application, it will issue an Email of Acceptance confirming its acceptance of the Application. If this occurs, an agreement is formed between the Applicant and the Department (**Agreement**) which includes:
- (i) the Email of Acceptance;
 - (ii) these conditions of grant;
 - (iii) the terms set out in the Guidelines; and
 - (iv) the information supplied by the Applicant in the Application.

In the event of inconsistency, the order of precedence set out above will apply for interpretation purposes.

- b. In these conditions of grant, the following definitions apply:
- **Applicant** means the legal entity specified in the Application which has submitted the application for funding under the Program for the Project and which will become the Recipient upon acceptance by the Department.
 - **Application** means the application submitted by the Applicant to the Department for funding under the Program for the Project.
 - **Department** or **State** means the State of Victoria through its Department of Jobs, Skills, Industry and Regions.
 - **Grant** means the funding provided by the Department to the Recipient under this Agreement for the Project.
 - **Guidelines** means the Emergency Sporting Equipment Grants Program Guidelines 2023-24.
 - **Program** means the Emergency Sporting Equipment Grants Program.
 - **Project** means the activities specified in the Application by the Applicant for which the Grant is provided.
 - **Recipient** means the Applicant as specified in the Application where the application has been accepted by the Department, by the issue of an Email of Acceptance.
- c. The Agreement commences on the date the Recipient acknowledges receipt of an Email of Acceptance and expires when the Project is completed, and the Recipient has provided all information requested by the Department pursuant to clause 3.e. Clauses 4, 5.b, 6, 7, 8 and 9 survive expiry or termination of the Agreement.

2. Payment of Grant

- a. The Department will pay the Grant to the Recipient subject to the terms and conditions of the Agreement, upon the Recipient acknowledging receipt of the Email of Acceptance.
- b. The parties agree that under this Agreement the Recipient is not making a taxable supply, and therefore is not subject to a GST liability. However, if GST is found to

be payable, the Grant shall be increased by an amount equal to any GST payable with respect to the taxable supply for which payment is made provided that with the claim for payment, the Recipient submits a tax invoice, unless the parties have agreed in writing to have issued a recipient created tax invoice. If GST is payable, the total amount of moneys paid under this Agreement will be increased to include the total amount of GST payable.

3. The Project

- a. The Recipient must apply the Grant solely for purpose of the Project.
- b. The Recipient must not commence the Project or purchase any item for the purposes of the Project before this Agreement commences in accordance with clause 3 the Program round closes and must satisfactorily complete the Project by no later than 12 months after receiving the Grant.
- c. The Recipient shall be responsible for the delivery of the Project. The Recipient must promptly advise the Department if the Recipient will not or may not perform or complete the Project. In such event the Department may require the refund of the whole or part of the Grant as it determines appropriate, in its absolute discretion.
- d. Nothing contained in the Agreement is to be construed as creating any obligation, commitment or undertaking by the Department to provide additional or further funding or assistance beyond that provided in this Agreement.
- e. The Recipient must provide to the Department such information as the Department may request from time to time in relation to the Project, the Recipient's activities, and the expenditure of the Grant, including information in relation to the evaluation of the Project. In particular, the Recipient must, no later than fifteen (15) months from receiving the Grant:
 - i. provide the Department with receipts or other satisfactory evidence of the expenditure of the Grant on the Project; and
 - ii. provide the Department with completed evaluation reports.

4. Intellectual property

The Recipient warrants that any intellectual property used by it in connection with any documents and other materials provided by the Recipient to the Department under this Agreement (**Agreement Material**) are the sole property of the Recipient or the Recipient is legally entitled to use that intellectual property for that purpose and grants to the Department a non-exclusive, fully paid up licence to reproduce, publish or otherwise use the Agreement Material.

5. Accounts and audit

- a. The Recipient must account for the Grant and all Project expenditure separately from other funds of the Recipient and in accordance with generally accepted accounting principles.
- b. Upon request, the Recipient must permit the Department and/or the Auditor General of Victoria access to accounting records relating to the Project and where relevant, inspect any Project works, the Project site or any equipment relating to the Project.

6. Withholding, refund and termination

If the Recipient breaches these conditions or if the Department is of the reasonable opinion that:

- (a) the Project is not proceeding satisfactorily or has not been or is unlikely to be completed in the manner contemplated in this Agreement;
- (b) the Recipient has engaged or may engage in any conduct which affects or may adversely affect the goodwill or reputation of the Recipient, the Project, the Department, a Minister, or the State or continued association with the Project or the Recipient may bring a Minister, the Department or the State into disrepute;
- (c) the Grant funds have not been expended solely on the Project;
- (d) the Recipient has provided any false or misleading information in the application process; or
- (e) there has been a significant deterioration in the financial circumstances of the Recipient,

the Department may in its absolute discretion:

- (f) withhold any payment due to be made under the Agreement;
- (g) require the repayment to the Department of the whole or part of the Grant as may be determined by the Department in its absolute discretion; and/or
- (h) by written notice terminate this Agreement.

7. Publicity

- a. The Department reserves the right to publicise the benefits accruing as the result of the provision of this Grant. The Department may issue a mutually agreeable media release regarding the Project. The Recipient must not publicise the Grant until after the publicity release by the Department without the approval of the Department. The Recipient must cooperate with the Department in relation to all publicity associated with the Grant. The Recipient must ensure that the State's support (except the Grant amount) for the Project is acknowledged on all promotional materials and appropriate signage consistent with the Guidelines for Victorian Government Advertising and Communications (available at www.dpc.vic.gov.au) or as otherwise specified by the Department.
- b. The Department may include the name of the Recipient and the amount of the Grant in its annual report.

8. Indemnity

The Recipient hereby indemnifies the Department, its officers, employees and agents against any cost, loss, liability or expense incurred by the Department arising from any act or omission of the Recipient in connection with the Project or breach of these conditions by the Recipient.

9. Services to children

If the Recipient receives funding from the Victorian Government to deliver services to children under the age of 18 under this or any other grant project, the Recipient must comply with the following conditions:

- a. the Recipient must, at a minimum, for the term of the Project, maintain adequate insurance against liability for child abuse on an occurrence basis that:
 - i. provides an explicit coverage statement in respect of Child Abuse;
 - ii. is for a minimum insured amount of \$5 million per claim or, in the case of coverage provided on the basis of a monetary aggregated claims amount, \$10 million per annum on an occurrence basis, and

- iii. indemnifies the insured for, amongst other things, its legal liabilities to third parties for personal injury, including shock and mental injury, and the policy does not contain any exclusions or limitations of coverage for Child Abuse or molestation.
- b. If, prior to entering into the Agreement, the Recipient was named in the Royal Commission into Institutional Responses to Child Sexual Abuse, or received notice that it was named in an application for redress to the National Redress Scheme for Institutional Child Sexual Abuse established under the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* (Cth) (**National Redress Scheme**), it must join or provide advice to the Department that it intends to join the National Redress Scheme as described in the Guidelines.
- c. Without limiting anything in this clause, the Recipient acknowledges and agrees that if the Project includes child-related work (as defined in section 7 of the *Worker Screening Act 2020* (Vic)), it will ensure that the staff and volunteers engaged in child-related work have approval under a current Working with Children Check.
- d. Where the Recipient is a relevant entity for the purposes of Child Safe Standards under the *Child Wellbeing and Safety Act 2004* (Vic), it must implement the Child Safe Standards in accordance with that Act so that:
 - (i) the safety of all relevant children is promoted;
 - (ii) child abuse (as defined in the *Child Wellbeing and Safety Act 2005* (Vic)) is prevented; and
 - (iii) allegations of child abuse are properly responded to.

10. Sporting organisations

- a. The Recipient must comply with the expectations of the Victorian Anti-doping Policy 2012 found at <https://sport.vic.gov.au/publications-and-resources/integrity-sport/anti-doping>.
- b. The Department is committed to promoting the Fair Play Code (**Code**), and expects that the Code will be actively promoted, adhered to and enforced by all sporting associations, clubs and other organisations. The Recipient will take all reasonable steps to ensure compliance with the Code by the Recipient and its Related Entities and the Recipient agrees that it will actively promote the Code in the Recipient's sport and to all Related Entities. The Recipient agrees to provide Timely Notice of any Unresolved Breach of the Code by the Recipient or Related Entities of which the Recipient becomes aware.
- c. For the purposes of this clause:
 - i. **Breach of the Code** includes any conduct which the Department, in its discretion, reasonably believe is, or may lead to, a contravention of the Code including conduct in any way connected with the Project.
 - ii. **Related Entities** means the Recipient's members, affiliates, and all other persons in the Recipient's sport over whom the Recipient can influence, control, or in relation to whose conduct the Recipient sets rules, standards or guidelines.
 - iii. **Timely Notice** means giving written notice to the Department as soon as practicable and within seven (7) days.

- iv. **Unresolved Breach** means a Breach of the Code or a complaint of a Breach of the Code, that has not been, or is not being, investigated, assessed or resolved at the appropriate level in accordance with the Code.

11. General

- a. Neither the Recipient nor its employees, servants or agents shall by reason of the Grant, be or become an agent of or in the service or employment of the State of Victoria in relation to the Project or for any other purpose whatsoever and the Recipient shall be responsible for all matters requisite as employer or otherwise in relation to such persons.
- b. Any variations to these conditions or to the Project must be in writing and agreed by both parties.
- c. Each provision of these conditions (or part thereof) will, unless the context requires otherwise, be read and construed as a separate or severable provision so that if any provision or part thereof is void or otherwise unenforceable for any reason then that provision or part thereof, will be severed and the remainder will be read and construed as if the severable provision or part thereof, had never existed.
- d. The laws of the State of Victoria shall govern these conditions and the parties submit themselves to the jurisdiction of the courts in the State of Victoria.