



**Queensland
Government**

GRANT AGREEMENT

BETWEEN

STATE OF QUEENSLAND

**through the Department of Regional Development, Manufacturing and
Water**

(ABN 51 242 471 577)

AND

[INSERT ORGANISATION]

(ACN XXX XXX XXX / ABN XX XXX XXX XXX)

Project: [Insert Project Name]

**RELATING TO THE MANUFACTURING ENERGY
EFFICIENCY GRANT PROGRAM (ROUND 1)**

GRANT AGREEMENT

This GRANT AGREEMENT is made on day 20

BETWEEN:

The State of Queensland acting through the **DEPARTMENT OF REGIONAL DEVELOPMENT, MANUFACTURING AND WATER**, (“the Department”) of Level 5, 1 William Street, Brisbane, Queensland, 4000.
ABN 51 242 471 577

AND

Insert organisation name (“the Organisation”) of **insert organisation address**

ACN: XXX

ABN: XXX

Background

- A. The Manufacturing Energy Efficiency Grant Program (MEEG) is a \$7.1 million Queensland Government program (an action under the Queensland Energy and Jobs Plan) assisting small and medium size manufacturers to reduce energy costs, energy use, operational emissions and improve awareness of energy use.
- B. MEEG will support eligible Queensland based manufacturing businesses by reimbursing up to 50 percent of eligible costs for the Project.
- C. The Department has agreed to provide the Grant to the Organisation to carry out the Project on the terms of this agreement.
- D. The parties wish to record the terms and conditions of their agreement in this agreement, which consists of this cover page, the signing page and all schedules and annexures.

REFERENCE SCHEDULE

1.	Organisation name: ACN: ABN:	
2.	Project title:	
3.	Project description: Approved Project plan required	<i>[Insert details then delete this note.]</i> Y / N <i>[select Y or N, delete the other and then delete this note]</i>
4.	Commencement Date:	<i>[This means the date this agreement is executed by the last party to do so. Insert applicable date and then delete this note.]</i>
5.	Agreement End Date:	<i>[Ensure date is 3 months after the last Milestone Date. Insert applicable date and then delete this note.]</i>
6.	Grant (exclusive of GST)	Milestone Deliverables, Milestone Dates and Grant payments as set out in Schedule 1 of this Agreement. TOTAL GRANT: <i>[Insert total amount of Grant and then delete this note.]</i>
7.	Site	<i>[Insert address of Project site and then delete this note.]</i>
8.	Insurance:	<ul style="list-style-type: none"> Public liability insurance for the amount of not less than \$10,000,000.00 in respect of each claim. Workers' Compensation as required by law.
9.	Contact officers:	For the Department: Name: Title: Postal Address: GPO Box 2247, Brisbane QLD 4001 Telephone: Email: For the Organisation: Name: Title: Postal Address: Telephone: Email:
10.	Special conditions	<i>[Insert as applicable - If no special conditions enter Not Applicable. Then delete this note.]</i>

TERMS AND CONDITIONS

1 DEFINITIONS, INTERPRETATION AND CONSIDERATION

1.1 In this Agreement, unless the contrary intention appears:

'Agreement' means this document including the cover page, signing page and all schedules and annexures;

'Agreement End Date' means the date on which this Agreement ends as specified in Item 5 of the Reference Schedule;

'Approved Project Plan' means (if applicable as noted in Item 3 of the Reference Schedule) the Organisation's project plan for the carrying out and completing the Project and for the conduct of its activities to be developed in accordance with Schedule 3 and approved by the Department;

'Books of Account' means any account, register or financial statement prepared by or for the Organisation relating to the Organisation's activities including the Project and includes the source document used to prepare the account, register or financial statement;

'Business Day' means a day that is not a Saturday, Sunday or gazetted public holiday in Brisbane, Queensland;

'Claim' has the meaning as given in clause 6.1;

'Commencement Date' means the date this Agreement commences as specified in Item 4 of the Reference Schedule;

'Conflict of Interest' means a situation, or a risk of a situation, where an officer, board or committee member, employee, member, volunteer, representative, contractor or agent of the Organisation has duties or interests arising as a result of holding a position, possessing property, engaging in a business or occupation or from contractual obligations and those duties or interests are in conflict with or might appear to be in conflict with their duties and interest under this Agreement;

'Dispute' means any dispute, controversy or difference between the parties as to:

- (a) the construction of this Agreement;
- (b) the rights or obligations of a party under this Agreement; or
- (c) any other matter arising out of or relating to this Agreement including any question regarding the existence, validity or termination of this Agreement;

'Eligible Expenses' means reasonable costs that are eligible under the Program Guidelines, incurred after the Commencement Date (or at the Department's discretion and approval incurred prior to the Commencement Date) and paid by the Organisation for carrying out and completing the Project in accordance with this Agreement;

'Final Report' means a report as required under Schedule 1 in the format notified by the Department to the Organisation and to be submitted by the Organisation to the Department as specified in Schedule 1;

'Grant' means the total amount of funding approved by the Department for the Project as specified in Item 6 of the Reference Schedule;

'Force Majeure' means any event beyond the reasonable control of the party affected and which occurs without fault or negligence of the affected party and may include:

- (a) acts of God;
- (b) war, riot, insurrection, vandalism or sabotage;
- (c) strike, lockout, ban, limitation of work or other industrial disturbance; and
- (d) law, rule or regulation of any government or governmental agency and executive or administrative order or act of general or particular application;

'GST' means any tax imposed by or through the GST Law or any similar tax, levy or impost imposed by the Commonwealth of Australia;

'GST Amount' means the amount of GST that may be payable in respect of any taxable supply under this Agreement, calculated at the rate of GST applicable at the time of the taxable supply;

'GST Law' means *A New Tax System (Goods and Services Tax) Act 1999 (Cth)* and any related tax imposition Act.

'Insolvency Event' means where:

- (a) the Organisation is unable to pay its debts as and when they fall due;
- (b) in the case of an individual, the individual enters into a scheme of arrangement with creditors or becomes bankrupt;
- (c) in the case of a legal entity that is not an individual:
 - (i) a receiver, receiver and manager, administrator, controller, provisional liquidator or liquidator is appointed to the Organisation;
 - (ii) the Organisation enters into a scheme of arrangement with its creditors; or
 - (iii) the Organisation is wound up;
- (d) the Organisation assigns any of its property for the benefit of creditors or any class of creditors;
- (e) a person with a legal right over any assets of the Organisation takes any step towards taking possession or takes possession of those assets or exercises any power of sale; or
- (f) the Organisation suffers a similar event to any of those described in paragraphs (a) to (e).

'Intellectual Property' includes all copyrights, moral rights, patent, trademarks, designs, semiconductor or circuit layout rights, confidentiality rights and other proprietary rights recognised by the World Intellectual Property Organisation, whether registrable or not, whether created before, on or after the Commencement Date;

'Milestone Date' means the date by which a Milestone Deliverable must be achieved, as set out in Schedule 1;

'Milestone Deliverable' means a performance criterion set out in Schedule 1;

'Organisation' means the entity described in Item 1 of the Reference Schedule;

'Party' or **'Parties'** means a party or parties to this Agreement.

'Payment Claim and Acquittal Form' means a claim for payment which must include all of the applicable information and material set out in Schedule 2, in the format approved by the Department, that the Organisation must complete, sign and forward to the Department to claim a payment of the Grant;

'Personal Information' has the meaning given in the *Information Privacy Act 2009 (Qld)*.

'Program' means the Manufacturing Energy Efficiency Grant Program which is a \$7.1 million Queensland Government program (an action under the Queensland Energy and Jobs Plan);

'Program Guidelines' means the Manufacturing Energy Efficiency Grant Program Guidelines (Round 1) prepared and released by the Department which set out, among other things, the Program's objectives and requirements, information and documents to be submitted by applicants for funding assistance under the Program, and the eligibility and assessment criteria, which are available at:

www.rdmw.qld.gov.au/MEEG

'Progress Report' means a report (if required) in the format notified by the Department to the Organisation and to be submitted by the Organisation to the Department as and when required by the Department, regarding the achievements, progress and expenditure for the Project and any other information reasonably requested by the Department;

'Project' means the project described in Items 2 and 3 of the Reference Schedule and (in more detail) in the Approved Project Plan;

'Project Intellectual Property' means Intellectual Property created or developed in the course of, or as a result of the Project;

Queensland Business Energy Saving and Transformation Program means the Queensland Government program referred to in Action 2.4 of the Queensland Energy and Jobs Plan dated September 2022.

'Reference Schedule' means the schedule provided on page 2 of this Agreement;

'Site' means the place where the entire or part of the Project is undertaken, as stated in Item 7 of the Reference Schedule.

'Site Visit' means attendance at the Site (or any other location where Project activities are being conducted) by officers of the Department to conduct a review of the development of the Project and all associated material;

'Special Conditions' means the Special Conditions, if any, stated in Item 10 of the Reference Schedule;

'Tax Invoice' has the meaning given to that term in the GST Law;

'Term' means the period from the Commencement Date to the Agreement End Date; and

'Terms and Conditions' means this part of this Agreement entitled 'Terms and Conditions'.

1.2 In this Agreement:

- (a) the word 'person' includes a corporation or other legal entity recognised by law or, where a person holding a position is nominated, the individual occupying that position from time to time;
- (b) a reference to a person includes a reference to the person's executors, administrators, successors, permitted substitutes and assigns (including persons substituted or assigned by novation or assignment pursuant to clause 16.2)
- (c) a reference to 'the Department' or 'the Organisation' respectively includes the Department's and the Organisation's officers, employees, contractors or agents;
- (d) words importing a gender include any other gender;
- (e) words in the singular include the plural and vice versa;
- (f) headings have been inserted for ease of reference only and are not intended to affect the meaning of this Agreement;
- (g) defined terms include other parts of speech and grammatical forms of the defined word or phrase;
- (h) a reference to any legislation includes any subordinate legislation made under it and any legislation amending, consolidating or replacing it;
- (i) an agreement, representation or warranty by two or more persons binds them jointly and each of them individually; and
- (j) the meaning of general words is not limited by specific examples introduced by "includes" or "including" or similar expressions.

1.3 Inconsistencies between the terms of this Agreement will be resolved in the following order of priority:

- (a) these Terms and Conditions;
- (b) the Reference Schedule;
- (c) Schedules 1, 2, and 3.

1.4 This Agreement is entered into in consideration of each party incurring obligations and giving rights under this Agreement (which each party acknowledges is good and valuable consideration).

2 TERM

This Agreement starts on the Commencement Date and ends on the Agreement End Date unless terminated earlier in accordance with clause 8.

3 THE ORGANISATION'S OBLIGATIONS

3.1 The Organisation must:

- (a) achieve each Milestone Deliverable by its respective Milestone Date to the satisfaction of the Department;
- (b) comply with the Special Conditions (if any) to the satisfaction of the Department;
- (c) carry out the Project and conduct its activities:
 - (i) in accordance with the Approved Project Plan and this Agreement; and
 - (ii) exercise the standard of care, skill, diligence and foresight that would reasonably be expected from an expert and experienced person carrying out the Project and conducting the Organisation's activities;
- (d) not vary the Project or the Approved Project Plan without obtaining the Department's prior written approval;
- (e) only use the Grant for the purposes of the Project in accordance with the Agreement and for no other purpose;
- (f) have an Australian Business Number;
- (g) effect and maintain the insurances specified in Item 8 of the Reference Schedule and any other insurance cover appropriate for the Project and the Organisation's activities, covering (to the extent permitted by law) all contractors, sub-contractors, employees, licensees and invitees of the Organisation (and in respect of any consultants or contractors it engages, require them to also have appropriate levels of such insurances in place) and produce evidence that such insurances have been effected and maintained when requested by the Department;
- (h) submit each Progress Report (if required) and Final Report to the Department as provided in Schedule 1;
- (i) own or have a licence to use the Intellectual Property required to undertake the Project;
- (j) in making any public statement or in any publicity material produced in relation to the Project include an acknowledgement of the Grant received from the Department, and provide a draft of the publicity material to the Department for endorsement prior to publication;
- (k) ensure public statement/s do not occur and any publicity material is not published in relation to the Project before the Commencement Date;
- (l) complete the Project by the Agreement End Date;
- (m) keep proper and adequate Books of Account in relation to its affairs generally and the Project;
- (n) record all expenditure relating directly or indirectly to, and (if applicable) all income arising directly or indirectly from the Project, separate from all other income and expenditure of the Organisation;
- (o) participate in and consent to the Department attending at the Site (or any other location where Project activities are being conducted) for the purposes of conducting any Site Visit in relation to the Project;
- (p) if required by the Department, the Organisation will provide copies and will also allow the Department's nominated agents and/or consultants to inspect and take copies of its Books of Account and other records relating to the Project; and
- (q) if requested by the Department, at the end of the Project and at the expense of the Organisation, have its Books of Account audited and provide a copy of the audited accounts to the Department within 60 days of the Agreement End Date;
- (r) if requested by the Department arrange for an authorised representative of the Organisation to attend an interview with the Department to further discuss the outcomes of the Project; and
- (s) immediately notify the Department in writing when it becomes aware of any of the following:
 - (i) subject to clause 3(d), any actual or proposed change to the Project;

- (ii) any actual or proposed material change which affects, or may affect, the Organisation (including, but not limited to, any actual or proposed change in control or any change in key personnel of the Organisation)
 - (iii) the occurrence or likely occurrence of any delay or failure to meet a Milestone Deliverable; and
 - (iv) any matters that relate to, or may be expected to, adversely affect the Organisation (including, but not limited to, its financial position and reputation, or reputation and standing of its key personnel) or the Project.
- (t) in relation to energy-efficient appliances or equipment requiring installation that involves work for which a licence is required under the *Electricity Safety Act 2002*, *Plumbing and Drainage Act 2018* or the *Queensland Building and Construction Commission Act 1991* or other relevant act, the work must be completed by a person who holds the relevant licence.
- (u) In relation to energy-efficient appliances or equipment to be installed under this Agreement, the Organisation must comply with relevant legislation and standards and ensure that it is electrically safe.

3.2 It is an express condition of this Agreement that:

- (a) all information that the Organisation provides in support of its application for the Grant;
- (b) each Payment Claim and Acquittal Form, report and supporting evidence submitted by the Organisation; and
- (c) all ancillary material provided by the Organisation at any time under or in connection with its application or this Agreement,

are true, accurate and complete.

3.3 The Organisation warrants that no Conflict of Interest exists or is likely to arise in the performance of its obligations or exercise of its rights under this Agreement and if during the Term a Conflict of Interest arises, the Organisation will notify the Department immediately in writing of that Conflict of Interest and will take all reasonable steps required by the Department to remove such Conflict of Interest.

4 PROVISION OF GRANT FUNDING

4.1 Subject to clauses 4.2 and 4.3, the Department will pay the Grant instalment amount to the Organisation within 20 Business Days following acceptance of the relevant Tax Invoice and Payment Claim and Acquittal Form. Such payment will be in reimbursement of the Eligible Expenses incurred by the Organisation.

4.2 Payment will be conditional upon provision of a valid and properly completed Tax Invoice, Payment Claim and Acquittal Form and any other documents and certificates or other evidence required by the Department to substantiate the Organisation's claim for payment, to the Department's satisfaction in accordance with Schedule 2.

4.3 The Department may at its absolute discretion withhold part or all of the Grant payable as set out in Schedule 1 if in the opinion of the Department the Organisation has failed to achieve a Milestone Deliverable or to comply with its obligations under this Agreement.

4.4 If the Organisation receives funding, or is entitled to receive funding, for the Project from any other source, then it must notify the Department immediately and the Department may reduce the outstanding balance of the Grant and may require the Organisation to refund all or part of the Grant already paid to the Organisation.

4.5 Any funding paid to the Organisation that is unexpended or not duly acquitted for reasons including, but not limited to:

- (a) savings achieved by the Organisation;
- (b) the Organisation's inability to complete the Project; or
- (c) a claim for payment of funding made for expenditure incurred by the Organisation which is either not an Eligible Expense or insufficient evidence has been provided by the Organisation to demonstrate the expenditure is an Eligible Expense,

must be refunded to the Department within 10 Business Days after the refund request is given to the Organisation.

4.6 The Organisation acknowledges that there is no obligation on the Department to provide future funding in relation to the Project unless the Department, at its sole discretion, determines otherwise and a further agreement is executed by the parties in relation to such funding.

5 CONFIDENTIALITY

5.1 Subject to clauses 5.2 and 5.3, where information is provided by one party which, in the opinion of that party, is confidential and communicated as such to the other party, the other party must take all reasonable steps to ensure that the information is not disclosed or communicated or used by persons other than those officers, employees or agents of the other party who need to know the information for purposes related to the Project.

5.2 The obligations in clause 5.1 are not applicable where:

- (a) a party expressly authorises the other party to reveal to any person confidential information, operations, dealings, or affairs of the other;
- (b) where a party is required to reveal such information by law; or
- (c) the information is or becomes public knowledge other than by breach of this Agreement or any other confidentiality obligation.

5.3 The Organisation acknowledges and agrees that the Department may publicly disclose:

- (a) the Organisation's name and address;
- (b) details of the Grant funding; and
- (c) general details of the Project, including outcomes, and may also disclose information:
 - (d) to the responsible Minister administering the Department and their personal and departmental advisers;
 - (e) in response to a request by the Parliament or a Committee of the Parliament of the State of Queensland;
 - (f) to any Commonwealth department, Minister, Queensland Government department, agency, authority, and its representatives, contractors, consultants and advisors including for the purpose of assessing and verifying such information; or
 - (g) where disclosure is required to be made in accordance with established governmental policies, procedures or for public accountability purposes.

5.4 The Organisation consents to the Department sharing information about the Organisation, details of the Grant funding and details about the Project with the Department of Energy and Public Works (or other Queensland Government or Australian Government department or agency) for the purpose of ensuring the Organisation does not receive funding under both the Program and from another funding source, including but not limited to the Queensland Business Energy Saving and Transformation Program.

6 RELEASE AND INDEMNITY

6.1 In this clause 'Claim' includes any claim, action, proceeding, demand, liability, obligation, costs (including legal fees and costs on a solicitor and own client basis), loss, damages or expense of any nature howsoever arising and whether present or future, fixed or unascertained, actual or contingent, direct or consequential, whether at law, in equity, under statute or otherwise.

6.2 The Organisation releases (to the full extent permitted by law) and indemnifies the Department from and against any Claim which may be brought against or made upon or incurred by the Department arising directly or indirectly out of:

- (a) any breach of this Agreement by the Organisation;
- (b) any act or omission by the Organisation in connection with the Project; or
- (c) the Organisation's use of any of the Intellectual Property rights arising from the Project or a Claim by a third party against the Department for infringement (or alleged infringement) of that third party's Intellectual Property rights;

except to the extent that any breach of this Agreement or negligent act or omission by the Department directly caused or contributed to the Claim.

6.3 The Organisation carries out the Project entirely at its own risk.

6.4 The liability of the Department under or in connection with this Agreement (howsoever arising including for negligence) is limited in aggregate to the amount of the Grant.

7 DELAY

7.1 If for any reason the Organisation believes the Organisation will not be able to achieve a Milestone Deliverable by the corresponding Milestone Date, the Organisation must notify the Department in writing of the cause, nature and anticipated duration of the delay and detail the steps the Organisation will take to address the delay.

7.2 A notice under clause 7.1 must meet the Organisation's obligations under clause 3(s).

8 TERMINATION

8.1 The Department may immediately terminate this Agreement by notice in writing if:

- (a) the Organisation breaches a term of this Agreement; and:
 - (i) the breach is not capable of being cured; or
 - (ii) the breach is capable of being cured and the Organisation fails to remedy the breach within 14 days after receiving notice to remedy from the Department specifying the breach;
- (b) an Insolvency Event occurs in relation to the Organisation; or
- (c) if the Organisation behaves in a way that the Department believes that its continued association with the Organisation may be detrimental to the reputation of the Department or the State of Queensland.

8.2 If the Department terminates this Agreement under clause 8.1,

- (a) it may, in the notice of termination, require the Organisation to immediately repay all or part of the Grant funding and such sum will be a debt due and recoverable by the Department;
- (b) it will have no liability to pay any further sums due under this Agreement to the Organisation; and
- (c) such termination will be without prejudice to any other rights the Department may have against the Organisation.

8.3 If there is a change in Queensland Government policy which affects the Program, the Department may immediately terminate this Agreement by giving the Organisation written notice.

9 INTELLECTUAL PROPERTY

9.1 The parties agree that the Project Intellectual Property is owned by the Organisation.

9.2 The Organisation warrants that:

- (a) where the Project Intellectual Property contains, or makes use of, material which is subject to pre-existing Intellectual Property of a third party, the requisite licence has been obtained; and
- (b) as at the Commencement Date it has not entered, and will not enter during the Term, into any agreement or arrangement with any third party with respect to the Project Intellectual Property which is inconsistent with the Organisation's obligations under this Agreement.

9.3 The Organisation grants the State of Queensland the right to use, reproduce and adapt the Project Intellectual Property for its own non-commercial purposes.

9.4 If clause 9.2(a) applies, the Organisation must procure the relevant third party to grant to the State of Queensland, a non-exclusive, non-transferable, irrevocable, paid up licence to use, reproduce and adapt the material and any future development of the material for the purposes stated in clause 9.3.

10 SURVIVAL OF CLAUSES

The following clauses will survive termination or expiration of this Agreement:

- (a) clause 3(h);
- (b) clause 3(p);
- (c) clause 3(q);

(d) clause 3(r);

(e) clause 5 (Confidentiality);

(f) clause 6 (Release and Indemnity);

(g) clause 9 (Intellectual Property); and

(h) clause 10 (Survival of Clauses).

11 AGREEMENT MANAGEMENT

The Department and the Organisation nominate the person specified in Item 9 of the Reference Schedule to be the contact officer for the day to day management of this Agreement. The Department and the Organisation may change their respective contact officer by written notice to the other party.

12 DISPUTE RESOLUTION

12.1 For the purposes of this clause a Dispute will have arisen when either party gives notice to that effect to the other.

12.2 The parties agree to seek to settle any Dispute by negotiation or mediation in accordance with this clause 12, before commencing court proceedings relating to the Dispute.

12.3 If the parties fail to settle the Dispute within 10 Business Days of receipt of the notice referred to in clause 12.1, the Dispute will be referred to mediation by either party.

12.4 If the parties fail to agree on the appointment of a mediator or terms of mediation within 5 Business Days after their failure to resolve the Dispute then either party may request the Australian Disputes Centre ('ADC') to appoint a mediator and terms of mediation.

12.5 Mediation between the parties will be held in Brisbane and must occur within 20 Business Days from the date the mediator is appointed. The parties must co-operate with the mediator in an effort to resolve the Dispute. Any costs incurred by the mediator in conducting the mediation are to be met equally by the parties.

12.6 If the Dispute is not resolved within 20 Business Days of commencement of the mediation or within any extended time agreed by the parties in writing, the mediation will cease and either party may commence legal proceedings.

12.7 Clauses 12.1 to 12.6 do not apply if either party commences legal proceedings for urgent interlocutory relief or if an authority of the Commonwealth, a State or a Territory is investigating a breach or suspected breach of the law by the Organisation.

13 GOODS AND SERVICES TAX ('GST')

13.1 The Grant payable under this Agreement is exclusive of GST.

13.2 If the Grant is a taxable supply under the GST Law, the Department will pay to the Organisation the GST Amount in addition to the Grant, subject to the Organisation first submitting to the Department a valid Tax Invoice in respect of the supply.

13.3 If there is:

- (a) any amendment to the GST Law;
- (b) a ruling or advice issued by the Commissioner of Taxation;
- (c) a refund to the Department or to the Organisation in respect of a supply made under this Agreement; or
- (d) a decision of any tribunal or court,

whereby the GST Amount paid by the Department differs from the GST Amount paid or payable by the Organisation to the Commissioner of Taxation, then the Organisation must issue an appropriate GST adjustment note and any difference must be paid by or to the Department as the case may be.

13.4 The parties agree to exchange such information as is necessary to enable each party to accurately assess its rights and obligations under this clause.

14 NOTICES

14.1 Any notice or other communication to be given under this Agreement must be in writing and may be delivered by hand, or sent by pre-paid post or e-mail transmission to the respective addresses set out in Item 9 of the Reference Schedule or any substitute address a party may notify to the other in writing for the purposes of this clause.

14.2 Notices will be deemed to have been given:

- (a) if mailed – 2 Business Days after posting;
- (b) if delivered – on the date of delivery; or
- (c) if emailed (and no undeliverable report is received) – on the date of the email,

except a notice that is delivered or emailed after 5:00 pm on any day will be deemed to be received on the next Business Day.

15 VARIATION

This Agreement may only be varied by agreement in writing signed by both parties.

16 GENERAL PROVISIONS

16.1 Entire Agreement - To the full extent permitted by law, in relation to its subject matter, this Agreement:

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

16.2 No assignment – The Organisation may not assign or novate the Agreement or any of the benefits or obligations under the Agreement without the Department's prior written consent.

16.3 Subcontracting – The Organisation may not subcontract any part of the Organisation's obligations under this Agreement without the Department's prior written consent.

16.4 Relationship – The parties agree that no employment relationship, agency, joint venture or partnership exists between the Department and the Organisation. The Organisation agrees it has no authority to bind or make any representation on behalf of the Department.

16.5 Severability – The invalidity or unenforceability of any one or more of the provisions of this Agreement will not invalidate or render unenforceable the remaining provisions of the Agreement. Any illegal or invalid provision or part of a provision of this Agreement will be severable and all other provisions will remain in full force and effect.

16.6 Jurisdiction – This Agreement is governed by the law of the State of Queensland and the parties agree to submit to the jurisdiction of the courts of the State of Queensland and the courts competent to determine appeals from those courts.

16.7 Waiver – No right under this Agreement will be deemed to be waived except by notice in writing agreeing or confirming such waiver by the waiving party. A failure by a party to enforce at any time any provision of this Agreement will not constitute a waiver of the party's rights in respect of the provision.

16.8 Compliance with laws – The Organisation must:

- (a) comply with all relevant laws, regulations, legal duties and standards that may be applicable to the Project and the Organisation's activities, including, but not limited to, laws governing Personal Information and electrical safety of electrical equipment; and
- (b) obtain, maintain and comply with the terms of any accreditation, licence, permit or registration required for the delivery of all or part of the Project or to conduct its activities.

16.9 Costs - The parties will pay their own costs (including legal costs), expenses and disbursements of and incidental to the preparation, and execution of this Agreement. The Organisation is responsible for any stamp duty or similar duty or tax payable in respect of this Agreement or any payment under it.

16.10 Time - Any act, matter or thing required under this Agreement to be done on a day which is not a Business Day must be done on the next succeeding Business Day.

16.11 Force Majeure – Neither party will be liable for, or in breach of, this Agreement as a result of any delay or failure to perform its obligations under this Agreement if such delay or failure is due to Force Majeure. The party affected by the Force Majeure ('the Affected Party') must immediately give notice to the other party in writing specifying full particulars of and use all reasonable diligence to remove or overcome the conditions constituting Force Majeure and minimise the impact as quickly as possible. However, the other party may terminate this Agreement if the Affected Party's performance of its

obligations under this Agreement is materially affected by Force Majeure lasting more than 60 days.

16.12 Counterparts - This Agreement may be signed in any number of counterparts with the same effect as if the signatures to each counterpart were on the same instrument. This Agreement, or any other document required to be executed under this Agreement, may be entered into and will become binding on the parties named in this Agreement (or the other document) upon one party signing a copy (including a scanned copy) that has been signed by the other party and transmitting a copy of this Agreement (or the other document) to the other party or the other party's agent or solicitors.

16.13 Dealings by the State - The State may assign, novate or otherwise deal with its rights and obligations under this Agreement to any State Government agency or authority without the consent of the Organisation. The Organisation must enter into any agreements or deeds reasonably required by the State to give effect to any such assignment, novation or dealings.

16.14 Electronic Signature - If this Agreement is signed by any person using an electronic signature, the parties:

- a) agree to enter into this Agreement in electronic form;
- b) consent to either or both parties signing the Agreement using an electronic signature; and
- c) agree a counterpart may be electronic and signed using an electronic signature.

Each signatory to this Agreement confirms that their signature appearing in the Agreement through use of an electronic signature, including any print-out (irrespective of which party printed it), is their personal signature authenticating this Agreement.

16.15 Electronic exchange - Without limitation, the parties agree that their communication of an offer or acceptance of this agreement, including exchanging counterparts, may be by any electronic method that evidences that party's execution of this agreement.

SCHEDULE 1 - MILESTONE DELIVERABLES AND GRANT PAYMENT

Milestone Deliverables	Milestone Date	Grant (GST exclusive)
Milestone 1: a) Completion of the Project; and b) Submission of the information specified in Schedule 2 of this Agreement.	[Within 6 months of Commencement Date]	XX% of total Grant [insert amount]
PAYMENT TOTAL (GST exclusive)		\$

SAMPLE

SCHEDULE 2 – INFORMATION AND MATERIAL FOR PAYMENT CLAIMS

The Organisation must provide:

- S2.1 A valid Tax Invoice from the Organisation for the amount of the Grant being claimed (note GST not applicable).
- S2.2 Supporting information:
- (a) a completed Payment Claim and Acquittal Form setting out:
 - (i) the Milestone Deliverable number;
 - (ii) each item of expenditure by the Organisation on the Milestone Deliverable;
 - (iii) the date of each item of expenditure;
 - (iv) the total expenditure by the Organisation on the Milestone Deliverable; and
 - (v) the total expenditure amount which has been expended on Eligible Expenses; and
 - (b) Evidence of expenditure on the Milestone Deliverable satisfactory to the Department including:
 - (i) copies of Tax Invoices;
 - (ii) copies of receipts or remittance records for payments of Tax Invoices or original bank statements of the Organisation showing payment of the Tax Invoices; and
 - (iii) a Final Report submitted by the Organisation, including outlining how the Program objectives described in the Program Guidelines were met.
- S2.3 If the Milestone Deliverable is the purchase of machinery, replacement and installation of equipment, fixtures or fittings, evidence of same, including photographs, must be provided. Evidence must also be provided to show the installation of any energy-efficient appliances or equipment was undertaken by an appropriately licenced person, and that the Organisation complied with relevant legislation and standards to ensure any energy-efficient appliances or equipment are electrically safe.
- S2.4 Evidence of implementation and sustainable decommissioning of replaced items is required prior to payment of the final claim.
- S2.5 Any other information and material reasonably requested by the Department.

SCHEDULE 3 – PROJECT PLAN

- S3.1 If requested by the Department the Organisation must develop and submit a draft project plan outlining the activities to be undertaken to carry out and complete the Project in accordance with the requirements set out in this Schedule 3.
- S3.2 The Organisation must, in preparing the draft project plan, include a description of the proposed Project activities, proposed approach to the conduct of the activities, proposed budget and expected costs and proposed timing for conduct of activities.
- S3.3 The Department will, within 10 Business Days of receipt of the draft project plan, review the draft project plan and either advise the Organisation that is approved or propose reasonable changes to the draft project plan. If the Department requires reasonable changes to the draft project plan the Organisation must within 10 Business Days modify and re-submit the draft project plan for approval. Once the draft project plan is approved, it will become the Approved Project Plan for the Agreement.
- S3.4 The Organisation may, at any time after the Department approves and the Approved Project Plan is established, submit an amended draft project plan for the Department's approval and the Department may reject the amended draft project plan or follow the steps in S3.3 to create a new Approved Project Plan.

SAMPLE

EXECUTED AS AN AGREEMENT

Signed for and on behalf of the **State of Queensland** acting through the **Department of Regional Development, Manufacturing and Water ABN 51 242 471 577** by

(full name and position)
a person duly authorised to act in that behalf:

Signature

Date

*Option 1: if the Organisation is an individual ****Delete if inapplicable**** OR*

Signed by [insert name of Organisation]

Signature

Date

*Option 2: if the Organisation is a company and signing by an authorised signatory ****Delete if inapplicable**** OR*

Signed for and on behalf of [insert name of Organisation] by its authorised signatory in the presence of:

Signature of witness

Full name of witness

Signature of authorised signatory

Full name of authorised signatory

*Option 3: if the Organisation is a company signing under section 127 **Delete if inapplicable** OR*

Executed by [insert name of Organisation]
[insert ACN of Organisation] in accordance
with section 127 of the *Corporations
Act 2001* (Cth):

Signature of Director

Signature of Director/Company Secretary
[delete position as appropriate]

Full name of Director who states that they
are a Director of [insert name of
Organisation] [insert ACN of
Organisation]:

Full name of Director/Company Secretary
[delete position as appropriate] who states
that they are a director/company secretary
[delete position as appropriate] of [insert
name of Organisation] [insert ACN of
Organisation]:

Date

Date

*Option 4: if the Organisation is another entity **Delete if inapplicable***

Signed for and on behalf of [insert name
of Organisation] by

Signature

Date

