

**Memorandum of Understanding**

[Name of ACNC registered charity]

[Name of third party group]



**THIS AGREEMENT** is made on the day of 20 .

**PARTIES**

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| **[full legal name of Your Charity]**  of [address]  (“**short** **name, We, Us or Our**”) |
| **[NAME OF third party GROUP]**  of [representative address]  (“**short** **name, You, or Your**”) |

**Background**

1. [Name of Your charity] is an Australian registered charity with a purpose of [details of purpose].
2. [Details of third party group]
3. [Details of representative from third party group]
4. The parties propose to collaborate on delivering [details of collaboration] (**the Program**).
5. From 23 July 2019 Australian registered charities must comply with four External Conduct Standards (**ECS**) in relation to their overseas operations. Compliance with the ECS is a condition of our ongoing registration as a charity.
6. The purpose of this Memorandum of Understanding (**MOU**) is to ensure the Program complies with the ECS, in that:
   1. it is delivered in a manner that ensures Resources reach the intended beneficiaries and are used for legitimate purposes; and
   2. any vulnerable persons benefiting from or delivering the Program are protected.
7. This MOU outlines the responsibilities and expectations of parties in the delivery of the Program.

**Terms**

1. The Objectives of the Program are to:
   1. Client input
   2. Client input
   3. Client input
2. Our key responsibilities

We will:

* 1. Client input
  2. Client input

1. Your key responsibilities

You will:

* 1. Client input
  2. Client input

1. Use of Resources
   1. All Resources must be used to:
      1. further the objectives of the Program; and
      2. benefit the participants in the Program.
   2. Resources may not be used in a way that is inconsistent with the Objectives of the Program.

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|  | We are required to take reasonable steps to ensure Resources are used consistently with Our purposes. This clause says that You will only Use Resources to further the Program. |

1. Controls and risk management
   1. You must implement reasonable controls and risk management processes to ensure that Resources (particularly funds) are not:
      1. stolen;
      2. used for any purpose other than the objectives of the Program; or
      3. inadvertently used to finance criminal activities including terrorism.

Appropriate controls and risk management processes may include reviewing transactions, obtaining records of expenditure such as receipts, budgeting and ensuring that more than one individual has oversight of accounts.

* 1. We may ask You to provide evidence of Your controls and risk management processes as part of Reporting (see clause 12).

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|  | We are required to implement and maintain reasonable internal procedures to ensure funds are used for their intended purpose, and to make sure our partner organisations do the same. |

1. Use and storage of Equipment
   1. You must ensure any Equipment is:
      1. only used to further the objectives of the Program;
      2. stored in a secure and safe location.
   2. You must establish and keep updated a Register of Equipment in the format set out in Schedule A.

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|  | We are required to ensure that Equipment is not lost, stolen or misused, resulting in it not being used for the Program. |

1. Whistleblowing and complaints handling

You must work with Us to ensure:

* 1. there is a clear, documented and published process:
     1. for employees, volunteers, others involved in delivery of the Program and participants in the Program to raise concerns regarding misconduct or behaviour that is illegal, unethical or corrupt;
     2. for participants in the Program to raise a complaint regarding the Program;
  2. concerns and complaints raised under clause 7(a) are acknowledged and responded to in an appropriate and timely manner; and
  3. individuals who express concerns or make complaints under this clause are not adversely affected because a concern or complaint was raised by them or on their behalf.

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|  | Any misconduct by You or Us, our respective employees, volunteers and other third parties is a risk to participants in the Program, the objectives of the Program and our respective reputations.  Whistleblowing and complaints handling processes help to make sure misconduct is identified so that You or We can respond to it. |

1. Conflicts of interest
   1. You must ensure that Your Representatives, Board members, employees, volunteers or other third parties:

A **Conflict of Interest** is when someone has a conflict between their own interests and the Program’s interests. For example, a volunteer may be distributing Resources to a group of individuals that includes the volunteer’s own family members. This has the potential to result in decisions or actions that are not in the best interests of the Program.

* + 1. understand when and how a perceived or actual Conflict of Interest may arise; and
    2. are required to disclose any perceived or actual Conflict of Interest to You.
  1. You must take reasonable steps to manage Conflicts of Interest so that decisions relating to the Program are not affected by the Conflict of Interest.

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|  | We are required to make sure that any perceived or actual material conflicts of interest for Representatives, Board members, employees and volunteers (including Your Representatives, Board members, employees and volunteers) in relation to work outside Australia are identified and documented. |

1. Protection of vulnerable individuals

Vulnerable Individuals must be protected in the delivery of the Program. Vulnerable Individuals may include both participants in the Program and individuals assisting in the delivery of the Program.

**Vulnerable individuals** include all children, as well as any individual who cannot take care of or protect themselves due to age, illness, trauma, disability or other disadvantage.

You must ensure that:

* 1. the Program is delivered in a way that minimises the risk of harm to Vulnerable Individuals;
  2. concerns and complaints about suspected abuse of Vulnerable Individuals are received and responded to;
  3. the privacy of Vulnerable Individuals is respected and protected; and
  4. staff and volunteers working with Vulnerable Individuals have appropriate training and qualifications.

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|  | The Law requires Us to ensure the safety of any Vulnerable Individuals connected to the Program, including staff, volunteers or beneficiaries who are Vulnerable Individuals. |

1. Screening and background checks

The Parties must ensure that:

* + 1. all staff and volunteers involved in the delivery of the Program are appropriately screened and recruited to minimise the risk of:
       1. harm to Vulnerable Individuals;
       2. financial impropriety; and
       3. perceived or actual Conflicts of Interest.
    2. all required checks to work with Vulnerable Individuals are completed before staff and volunteers work with Vulnerable Individuals.

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|  | Screening and background checks may include criminal record checks and child safety checks (if they are available in Your country or region) as well as reference checks. Screening helps ensure that delivery of the Program is in good hands. |

1. Extraterritorial legislation
   * 1. You acknowledge that the Program and the Use of Resources may be subject to Australian laws, particularly in relation to:
     + Money laundering
     + Terrorism financing
     + Modern Slavery
     + Trafficking
     + Child sexual abuse
     + Bribery
     + People Smuggling
     + Dealing with internationally sanctioned countries, entities or persons.
     1. You agree to provide Us with information, records and other documents to assist Us to confirm that these laws are being complied with within a reasonable period of any request from Us.

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|  | We are required to comply with Australian laws that apply outside of Australia. The Program and the Use of Resources must comply with these laws. |

1. Record keeping and reporting

You agree to:

* 1. Keep records for seven years of:
     1. income and expenses in relation to the Program;
     2. complaints or concerns raised by Representatives, Board members, employees, volunteers and beneficiaries about the Program, as well as information about how those complaints or concerns are resolved;
     3. Conflicts of Interest identified relating to the Program;
     4. screening and background checks completed for the Program; and
     5. policies and procedures that relate to the Program.
  2. Provide Us with the following records and information relating to the Program:
     1. An annual report including:
        1. details of income and expenditure;
        2. details of the Program activities; and
        3. the Register of Conflicts of Interest; and
        4. the Register of Equipment;
        5. any complaints or concerns raised and how those complaints or concerns were resolved;

for the previous year.

* + 1. Immediate notification of:
       1. any breach of this Memorandum of Understanding;
       2. any risk that the Program or Use of Resources may be in any way connected with any of the activities identified in clause 11(a) (relating to breach of Australian extraterritorial laws);
       3. any act or omission that could cause damage to Your reputation or Our reputation; and
       4. any harm to Vulnerable Individuals.
    2. On request, information and documentation reasonably necessary to enable Us to confirm compliance with the ECS.

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|  | Reporting helps Us to make sure that We can demonstrate that the Program is complying with the ECS. |

1. Dispute resolution

If a dispute arises that the Parties cannot resolve by negotiation, the Parties may attempt to resolve the dispute with the assistance of a mediator acceptable to both Parties.

1. Amendment

This MOU may only be amended in writing signed by both Parties and may not be amended in any other manner.

1. Term
   1. This MOU commences on the date it is last signed by all the Parties and ends on the earlier of:
      1. [Client input – eg two years] (unless it is extended pursuant to clause 1(b) below);
      2. termination by Us, if we consider that:
         1. the Program is not meeting the Objectives;
         2. there is a serious breach of this MOU;
         3. [CLIENT INPUT];
      3. the Parties both agreeing in writing to terminate the MOU;
      4. a Party giving ninety days’ notice to the other Party of the Party’s intention to terminate the MOU; or
      5. either Party being wound up, deregistered or disbanded.
   2. The term of this MOU may be extended for a further two years if both Parties agree that the purpose of this MOU is being achieved.
2. Relationship between the parties
   1. This MOU is not intended to create and does not create a joint venture, legal partnership, employee, employer, agent or representative relationship between You and Us.
   2. Each Party must not represent itself, or allow its officers, employees, agents and subcontractors to represent themselves, as being an officer, employee, partner, agent or representative for the other party.
3. Definitions

In this MOU, unless the context suggests otherwise, the terms listed below have the following meanings:

**Board members** means members of a committee, board or other governing entity (if any).

**Child** means an individual who is under the age of 18 years;

**Conflict of Interest** means an actual or perceived conflict between a person’s interests and the interests of the Parties, including interests of a person’s family, friends or other organisation they are involved in;

**Equipment** means all items provided to You by Us or purchased with **Resources** for the Program with a value over \_\_\_\_\_\_\_\_\_\_\_\_ (specify value) or listed in the Schedule.

**Vulnerable Individual** means:

* + 1. a Child; or
    2. any individual who is or may be unable to take care of themselves, or is unable to protect themselves against harm or exploitation due to age, illness, trauma, disability or other disadvantage.

**Representative** means a person representing the third party group, including community and spiritual leaders.

**Resources** means money, property, materials or other assets provided by Us or acquired with money provided by Us for the Program.

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| **EXECUTED BY [YOUR CHARITY]** by its authorised officer in the presence of: | | |
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| Signature |  | Full name |
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| Witness |  | Witness full name |
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| **EXECUTED BY [Third party group]** by its Representatives in the presence of: | | |
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**SCHEDULE A**



**Register of Equipment**

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| **ITEM** | **DESCRIPTION** | **DATE OBTAINED** | **OWNER** | **LOCATION/STORAGE** | **VALUE** | **COMMENTS** |
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**SCHEDULE B**

**External Conduct Standards Conflicts of Interest Register**



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| **FULL NAME** | **GROUP** | **ROLE IN GROUP** | **NATURE AND EXTENT OF INTEREST** | **HAS THE GROUP BEEN NOTIFIED OF THE INTEREST** | **DATE DISCLOSED** | **ACTION TAKEN TO ADDRESS THE CONFLICT** | **COMMENTS** |
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