

Department of Education and Training

Industry Skills Fund

Split Payment Funding Agreement

Commonwealth of Australia (**Commonwealth**)

[insert] (**Recipient**)

[Note to user:

This is the funding agreement for Industry Skills Fund grants:

- **in relation to projects that have a duration of between three and six months; or**
- **where the Recipient or Consortium requires a part payment at the start of the Project, is willing to carry part of the cost of training and would prefer reduced reporting.**

This agreement is to be used subject to the requirements of the Accountable Authority Instructions and the *Commonwealth Grants Rules and Guidelines – July 2014*]

Details

Date

_____/_____/20_____
Day month year

Parties

Name	The Commonwealth of Australia as represented by the Department of Education and Training
Short form name	Commonwealth ABN 12 862 898 150
Name	[insert name of Recipient]
Short form name	Recipient ABN [insert Recipient's ABN]

Background

- A The Industry Skills Fund:
- (i) is a key element in the Australian Government's National Industry Innovation and Competitiveness Agenda and will provide over 250,000 training places and support services;
 - (ii) will prioritise SMEs, including micro businesses and will be delivered through the Single Business Service, making delivery and access simpler and more streamlined for business, reducing red tape and improving value for taxpayers' money; and
 - (iii) will assist Australian industry to access training and support services and develop innovative training solutions so Australia will have the highly skilled workforce it needs to adapt to new business growth opportunities, rapid technological change and market driven structural adjustment.
- B The Commonwealth is required by law to ensure accountability for the Funds and accordingly the Recipient is required to be accountable for all Funds received.
- C The Commonwealth has agreed to provide the Funds through the Industry Skills Fund to the Recipient for the purposes of the Project, subject to the terms and conditions of this Agreement.
- D The Recipient accepts the Funds for the purposes of the Project, and subject to the terms and conditions of this Agreement.

Funding Agreement

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Split Payment Funding Agreement

1. This Agreement

1.1 Documents forming this Agreement

- (a) This Agreement comprises:
 - (i) this Funding Document, including the Schedules and any attachments to the Schedules;
 - (ii) the Supplementary Terms; and
 - (iii) any other documents incorporated by reference in this Agreement.
- (b) If there is inconsistency between any of the documents forming part of this Agreement, those documents will be interpreted in the following order of priority to the extent of any inconsistency:
 - (i) clauses 1 to 10 of this Funding Document and the Supplementary Terms;
 - (ii) Schedules;
 - (iii) any attachments to the Schedules; and
 - (iv) documents incorporated by reference in this Agreement.

1.2 Definitions and interpretation

- (a) In this document (including the Schedules):
 - (i) “**Funding Document**” means this document (including the Schedules);
 - (ii) “**Supplementary Terms**” means the Industry Skills Fund, Long Form Supplementary Terms published by the Commonwealth at www.business.gov.au/IndustrySkillsFund as amended from time to time in accordance with this Agreement; and
 - (iii) the defined terms in clause 1.1 of the Supplementary Terms apply.
- (b) Clause 1.2 of the Supplementary Terms applies to the interpretation of this Funding Document, including the Schedules.

2. Duration of Agreement

- (a) This Agreement begins on the Commencement Date and continues until the End Date unless terminated in accordance with clause 16 of the Supplementary Terms.
- (b) The End Date may be extended:
 - (i) by notice from the Commonwealth to the Recipient prior to the then current End Date, to the date occurring 30 days after the then current End Date; or
 - (ii) to such other date as is agreed in writing by the Commonwealth and the Recipient.

3. Consortium

If the Recipient is the Lead Organisation of a Consortium, the terms in Schedule 5 apply.

4. Project

4.1 Undertaking the Project

The Recipient must:

- (a) undertake the Project to achieve the Outcomes;
- (b) undertake the Project diligently, effectively, to a high professional standard and in accordance with:
 - (i) all applicable Laws;
 - (ii) the Programme Guidelines; and
 - (iii) any Commonwealth policies and specific requirements set out in item 9 of Schedule 1;
- (c) complete the Project within the Agreement Period; and
- (d) meet the due dates for the Milestones, as specified in Schedule 2.

4.2 Acknowledgement of support

The Recipient must, in all:

- (a) publications, promotional and advertising materials;
- (b) public announcements, events and activities in relation to the Project; and
- (c) any products, processes or inventions developed as a result of it;

acknowledge the financial and other support received from the Commonwealth, in the manner (if any) specified in item 10 of Schedule 1 or otherwise approved by the Commonwealth prior to its use.

4.3 Warranties

The Recipient represents and warrants that:

- (a) it has the right to enter into this Agreement;
- (b) it and its subcontractors and Personnel, including its Specified Personnel, have the necessary experience, skill, knowledge, expertise and competence to undertake the Project and (where appropriate) will hold such licences, permits or registrations as are required under any State, Territory or Commonwealth legislation to undertake the Project, and are fit and proper people;
- (c) if the Recipient is a trustee, it enters this Agreement personally and in its capacity as trustee and has the power to perform its obligations under this Agreement.
- (d) it is compliant with the *Workplace Gender Equality Act 2012* (Cth) (**WGE Act**) and the Recipient agrees that:
 - (i) if it becomes non-compliant with the WGE Act during the Agreement Period, the Recipient must notify the Commonwealth as soon as practicable;
 - (ii) if the Agreement Period exceeds 18 months, the Recipient must provide a current letter of compliance under the WGE Act within 18 months from the Commencement Date and following this, annually to the Commonwealth; and
 - (iii) compliance with the WGE Act does not relieve the Recipient from its responsibility to comply with its other obligations under this Agreement.

5. Other financial assistance

- (a) The Recipient must give the Commonwealth full details of any financial assistance for activities in connection with the Project which the Recipient receives from:
 - (i) another Commonwealth, State or Territory government source or agency; or
 - (ii) a provider of Training or Support Services, including in the form of a discount or refund (in whole or in part) on the cost of such services, or a financial or in-kind benefit,

after the Commencement Date of this Agreement, (**Other Financial Assistance**) including the amount and source of the Other Financial Assistance and, in the case of government or agency assistance, the name of the program under which it was provided, within 30 days of the Recipient receiving notice that the Other Financial Assistance has been approved.

- (b) The Commonwealth may:
 - (i) reduce, suspend or defer its payments as set out in Schedule 4; or
 - (ii) require the Recipient to repay Funds to the Commonwealth,

in the event the Recipient receives Other Financial Assistance, but only to the extent of the value of, or in the case of Other Financial Assistance described in paragraph 5(a)(ii), the Commonwealth Proportion of, that Other Financial Assistance

6. Funds

6.1 Payment

Subject to:

- (a) clauses 6.2 of this Funding Document and the Supplementary Terms;
- (b) sufficient funding being available for the Programme; and
- (c) the Recipient complying with this Agreement,

the Commonwealth will pay the Funds to the Recipient as set out in Schedule 4.

6.2 Suspension

- (a) Without limiting any other right or remedy of the Commonwealth, the Commonwealth may suspend payment of the Funds (or any part of the Funds) if:
 - (i) the Recipient has not provided a Report due to be provided before the date for payment, until the Report is provided;
 - (ii) a Report provided by the Recipient is not accurate or complete, until an accurate and complete replacement Report is provided;
 - (iii) the Recipient has not achieved a Milestone that was due to be achieved before the date for payment, until the Milestone is achieved;
 - (iv) the Recipient has not otherwise undertaken the Project to the satisfaction of the Commonwealth, until the Recipient remedies its performance;
 - (v) the Recipient has breached any provision of this Agreement, until such breach is remedied to the Commonwealth's satisfaction; or

- (vi) the Commonwealth is entitled to require the repayment of Funds by the Recipient under clause 9 of this Funding Document.
- (b) Despite any suspension, the Recipient must continue to perform its obligations not affected by the suspension under this Agreement.

6.3 Incorrect reports, under/over payment

If an report of Eligible Expenditure incurred is found to have been incorrect after payment, any underpayment or overpayment will be recoverable by or from the Recipient, as the case may be.

6.4 Taxes

The Recipient must pay all:

- (a) stamp duty (including penalties and interest) assessed or payable in respect of this Agreement and the Project; and
- (b) subject to clause 7 of this Funding Document, all taxes, duties and government charges imposed or levied in Australia or overseas in connection with the performance of this Agreement.

7. GST

7.1 Construction

In this clause 7 words and expressions which are not defined in this Agreement but which have a defined meaning in the *GST Law* have the same meaning as in the *GST Law*.

7.2 Consideration GST exclusive

Unless otherwise expressly stated, all prices or other sums payable or consideration to be provided under this Agreement are exclusive of GST.

7.3 Payment of GST

If GST is payable by a supplier on any supply made under this Agreement, the recipient of the supply will pay to the supplier an amount equal to the GST payable on the supply, in addition to and at the same time that the consideration for the supply is to be provided under this Agreement.

The Commonwealth will issue the Recipient with a Recipient Created Tax Invoice (RCTI) for any taxable supplies it makes in relation to the Project. Grant payments will be increased to compensate for any GST that the Recipient may be required to remit to the Australian Taxation Office.

7.4 Tax invoice

- (a) Except where clause 7.4(b) of this Funding Document applies:
 - (i) the supplier must deliver a tax invoice or an adjustment note to the recipient of the supply before the supplier is entitled to payment of an amount under clause 7.3; and
 - (ii) the recipient of the supply can withhold payment of the amount payable under clause 7.3 of this Funding Document until the supplier provides a tax invoice or an adjustment note as appropriate.
- (b) If GST is imposed on any supply made by the Recipient to the Commonwealth under this Agreement in return for all or any part of the Funds, the Commonwealth may issue a 'recipient created tax invoice' to the Recipient for the supply in question (and an adjustment note for any adjustment event in respect of that supply) and the Recipient must not issue a tax invoice (or adjustment note) for or in respect of the supply. Each party

warrants that it is GST registered and agrees that it will promptly notify the other party if it ceases to be GST registered.

7.5 Adjustment event

If an adjustment event arises in respect of a taxable supply made by a supplier under this Agreement the amount payable by the recipient of the supply under clause 7.3 of this Funding Document will be recalculated to reflect the adjustment event and a payment will be made by the recipient of the supply to the supplier or by the supplier to the recipient of the supply as the case requires.

7.6 Reimbursements of GST

No party may claim from the other an amount for which the first party can obtain an input tax credit.

8. Use of Funds

8.1 Reimbursement of Eligible Expenditure

- (a) Subject to this Agreement, the Commonwealth will pay the Funds to the Recipient as reimbursement of Eligible Expenditure actually incurred by the Recipient for the purposes of undertaking, and that is directly related to, Eligible Activities within the scope of the Project as set out in the table in clause 2 of Schedule 2.
- (b) The Commonwealth is only obliged to pay Funds to the Recipient up to the relevant Commonwealth Proportion of that Eligible Expenditure.
- (c) The Commonwealth may, at its discretion:
 - (i) reduce the amount of Funds payable to the Recipient by notice in writing to the Recipient at any time if, in the Commonwealth's opinion, the Recipient is underperforming in the conduct of the Project (including, without limitation, where the number of individuals actually undertaking Training is significantly lower than the number proposed by the Recipient in its application for Funds);
 - (ii) reduce the amount of the Funds payable to the Recipient under this Agreement by an amount equivalent to the difference between:
 - (A) the Commonwealth Proportion of Eligible Expenditure incurred in connection with the provision of Training and Support Services to the total number of Eligible Learners reported by the Recipient to have commenced Training during the period of the Project; and
 - (B) the Commonwealth Proportion of Eligible Expenditure incurred in connection with the provision of Training and Support Services to the total number of Eligible Learners reported by the Recipient to have completed Training during the period of the Project; or
 - (iii) reduce the amount of the Funds payable to the Recipient under this Agreement by an amount equivalent to the Commonwealth Proportion of Eligible Expenditure incurred in connection with the provision of Training and Support Services to any person to whom a privacy notice has not been provided in accordance with clause 11.6 of the Supplementary Terms.
- (d) Except as provided in clauses 8.1(a) and 8.1(b) of this Funding Document, the Commonwealth is not liable to pay or reimburse, or otherwise responsible for, any costs or expenditure incurred by the Recipient in connection with this Agreement or the Project.

8.2 Eligible Activities

- (a) Subject to clause 8.2(b) of this Funding Document, an activity is an Eligible Activity if it is an eligible activity for the purposes of the Programme Guidelines and it has the potential to lead to increased productivity, competitiveness or sustainability of the Recipient through Training or a Support Service that is identifiable, transferrable to alternative employment by an Eligible Learner, and that builds the capability of the Eligible Learner.
- (b) Each of the following is not an Eligible Activity:
 - (i) an activity in respect of which the Recipient is eligible to receive, or has received, funding or a subsidy from a State or Territory or the Commonwealth (otherwise than under the Programme);
 - (ii) the provision of Skills Advice;
 - (iii) Training or Support Services provided by the Recipient or a Related Party to the Recipient's officers or employees, or provided under an auspicing arrangement;
 - (iv) consultancy and related activities that do not build the capability of an Eligible Learner.
- (c) Eligible Activities that are within the scope of the Project are outlined in Schedule 2 of this Funding Document.

8.3 What Funds cannot be used for

The Recipient must ensure that the Funds are not spent to:

- (a) acquire or create any Asset; or
- (b) subsidise remuneration paid to the officers, employees or contractors of the Recipient or any of its or their Related Parties; or
- (c) replace any of the officers, employees or contractors of the Recipient undertaking Training.

8.4 Bank account

The Recipient must:

- (a) ensure that Funds paid to the Recipient are held in an account in the Recipient's name, and which the Recipient solely controls, with an authorised deposit-taking institution authorised under the *Banking Act 1959* (Cth) to carry on banking business in Australia;
- (b) unless specified otherwise in Schedule 4, ensure that the account referred to in clause 8.4(a) of this Funding Document is:
 - (i) established solely for the purposes of accounting for, and administering, any Funds paid to the Recipient;
 - (ii) an account that bears a rate of interest reasonably required by the Commonwealth; and
 - (iii) separate from the Recipient's other operational accounts;
- (c) unless the Recipient is a sole director company that is not a Consortium Member, ensure that two signatories, who have the Recipient's authority to do so, are required to operate the account;
- (d) notify the Commonwealth, prior to the receipt of any Funds, of details sufficient to identify the account;

- (e) on notification from the Commonwealth, provide the Commonwealth and the authorised deposit-taking institution with an authority for the Commonwealth to obtain any details relating to the use of the account;
- (f) if the account changes, notify the Commonwealth within **14 days** of the change occurring, providing the Commonwealth with details of the new account, and comply with clause 8.4(e) of this Funding Document in respect of the new account; and
- (g) identify the receipt and expenditure of the Funds separately within the Recipient's accounting records so that at all times the Funds are identifiable and ascertainable.

8.5 No additional Funds

The Commonwealth is not responsible for the provision of additional money to meet any Eligible Expenditure in excess of the Commonwealth Proportion or the maximum amount of the Funds.

9. Repayment

9.1 Repayment and set off

- (a) Without limiting any other right or remedy of the Commonwealth, the Commonwealth is entitled at any time (including after the End Date) to recover from the Recipient any amount of Funds if:
 - (i) in the Commonwealth's opinion, the Funds have been paid by the Commonwealth in respect of amounts claimed by the Recipient:
 - (A) that are not Eligible Expenditure actually incurred by the Recipient (including as a result of any incorrect or fraudulent information or reporting by the Recipient or a provider of Training or Support Services); or
 - (B) otherwise than in accordance with this Agreement;
 - (ii) the Recipient is in breach of this Agreement;
 - (iii) clause 5(b)(ii) of this Funding Document applies; or
 - (iv) an amount of Funds has been overpaid to the Recipient following a reduction of the amount of Funds payable to the Recipient under clause 8.1(c) of this Funding Document.
- (b) The Recipient is not obliged to repay Funds to the Commonwealth in relation to any amount that it has paid to a provider of Training or Support Services that is not Eligible Expenditure because of incorrect invoicing by that provider, or a failure of the provider to deliver the Training or Support Services, to the extent that the Recipient is unable, after reasonable endeavours, to obtain a refund of that amount from the provider (whether by way of cash, in-kind, credit or other form of refund).
- (c) Without limiting any other right or remedy of the Commonwealth, the Commonwealth may set off the amount of the overpayment against any amount of Funds payable by the Commonwealth to the Recipient under this Agreement.

9.2 Repayment notice

- (a) 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 9 of this Funding Document.
- (b) If the Commonwealth gives a notice under clause 9.2(a) of this Funding Document, the Recipient must repay the amount specified in the notice in full (or deal with it as specified

by the Commonwealth) within 14 days of the date of the notice (or such other period agreed by the Commonwealth).

10. Monitoring progress

10.1 Progress meetings

The parties will meet at the times and in the manner reasonably required by the Commonwealth to discuss any issues in relation to this Agreement or the Project. The Recipient must ensure that the Recipient Representative, and the Commonwealth must ensure the Commonwealth Representative, is reasonably available to attend such meetings and answer any queries relating to the Project raised by either party.

10.2 Reporting

The Recipient must provide the Commonwealth with reports in accordance with Schedule 3. If any of the reports provided to the Commonwealth under Schedule 3 are not provided within the time required by or under that Schedule or do not meet the satisfaction of the Commonwealth, at the Commonwealth's sole discretion, the Commonwealth may, without limiting any of its other rights under this Agreement or at law, reduce or suspend the Funds, or terminate the Agreement.

10.3 Evaluation

In relation to any review or final evaluation of the Programme, the Recipient must *within 14 days*:

- (a) provide all reasonable assistance to the Commonwealth;
- (b) respond to all reasonable requests from the Commonwealth; and
- (c) provide any information reasonably required by the Commonwealth.

Schedule 1 – Agreement Details

Item number	Description	Clause Reference	Details
1.	Commonwealth	1.1 of the Supplementary Terms	Commonwealth of Australia as represented by the Department of Education and Training [insert street address] ABN 12 862 898 150
2.	Recipient	1.1 of the Supplementary Terms	[insert name of Recipient] [insert place of business street address] [insert ABN --/---/---/---
3.	Commonwealth Representative	1.1 of the Supplementary Terms 10.1 of this Funding Document	The person occupying [insert position title] currently [name of the Commonwealth's representative]
4.	Recipient Representative	1.1 of the Supplementary Terms 10.1 of this Funding Document	The person occupying [insert position held] currently [insert name of Recipient's representative]
5.	Consortium Members	1.1 of the Supplementary Terms	[insert name and ABN of each Consortium Member as at the Commencement Date]
6.	Commencement Date	1.1 of the Supplementary Terms 2 of this Funding Document	[insert date Agreement is to commence eg, dd/mm/yy or the last date the Agreement is signed or on occurrence of a specified event - specify whichever applicable]
7.	End Date	1.1 of the Supplementary Terms 2 of this Funding Document	[insert date the Agreement is to end eg, dd/mm/yy]
8.	Programme Delegate	1.1 of the Supplementary	[name of the Programme Delegate]

Item number	Description	Clause Reference	Details
		Terms and	
9.	Policy and requirements	4.1	[insert reference to all relevant policies.]
10.	Acknowledgment of support	4.2	[insert required manner for Recipient to acknowledge Commonwealth support of Project Form of words to be supplied by line area in consultation with Marketing and Communications]
11.	Subcontractors	2.1 of the Supplementary Terms	[insert business names, place of business and corresponding ABNs of any subcontractors. Otherwise insert 'not applicable']
12.	Specified Personnel	1.1 and 2.2 of the Supplementary Terms	[insert names and positions of Specified Personnel. Otherwise insert 'not applicable']
13.	Commonwealth Material	1.1, 3 and 4.3 of the Supplementary Terms	[Insert specific Material to be provided to the Recipient by the Commonwealth (if any) and any restrictions on the use of the Material. Otherwise insert 'not applicable']
14.	Pre-existing Material	1.1 of the Supplementary Terms	[specify Commonwealth's and Recipient's pre-existing Material, if any]
15.	Intellectual Property Rights – licences	4.3 of the Supplementary Terms	<p>1. Period of licence to Commonwealth is: Perpetual</p> <p>[Substitute for Perpetual, the duration of the Commonwealth's licence to use the Pre-existing Material and Third Party Material provided by the Recipient, and Agreement Material.]</p> <p>2. [if the terms of the licence are to differ from that provided in clause 4.3 of the Supplementary Terms state the position here]</p>
16.	Moral Rights – Specified Acts	5.2 of the Supplementary Terms	[if the Commonwealth wants to perform additional acts with the Agreement Material other than those listed in clause 5.2 of the Supplementary Terms, these should be set out here. Otherwise insert 'not applicable']
17.	Insurance	7.1 of the Supplementary Terms	[insert if different to clause 7 of the Supplementary Terms]
18.	Confidential	1.1 and 10.7 of	[insert each party's Confidential Information (decided

Item number	Description	Clause Reference	Details
	Information	the Supplementary Terms	<p>by reference to the Department of Finance's <i>Guidance on Confidentiality in Procurement</i> found at: http://www.finance.gov.au/procurement/procurement-policy-and-guidance/buying/contract-issues/confidentiality-procurement-cycle/practice.html), including any Agreement provisions or Schedules that are to be kept confidential. The period of confidentiality should be specified for each item. If the parties agree that different items of information are to be confidential for different periods of time, the different periods should be recorded next to each item. An assessment will need to be made by the parties on a case-by-case basis about what is to be included in this item.</p>
19.	Address for Notices	18.1 of the Supplementary Terms	<p>Commonwealth: The person occupying [insert position of person] currently [name] is to receive Notices. [insert postal address] [insert street address] [insert facsimile number including area code]</p> <p>Recipient: The person occupying [insert position of person] currently [insert name] is to receive Notices [insert postal address] [insert place of business street address] [insert facsimile number]</p>

Schedule 2 – Project

1. Outcomes (clauses 1.1 of the Supplementary Terms and 4.1 of this Funding Document)

[Set out objectives or outcomes, ie what the Recipient is to achieve in undertaking the Project.]

2. Description (clause 1.1 of the Supplementary Terms)

[Describe the Project, including:

- Training; and
- Support Services,

that the Recipient will be undertaking for the purposes of the Project. It is important to include sufficient detail to allow the Department to judge whether Eligible Expenditure that the Recipient claims for reimbursement through the Funds falls within the approved scope.

The description of the Project should also include, in the table below:

- the identity of all employers and providers of Training and Support Services;
- the actual, or estimated, number of Eligible Learners that will undertake Training;
- the types of qualifications or Training proposed to be undertaken (and the identity of the Training provider for each);
- the total estimated cost of the Project to the Recipient (including estimated Eligible Expenditure to be reimbursed by the Commonwealth) and a breakdown of the Recipient's proposed contribution to Eligible Expenditure for each Eligible Activity.]

The table below specifies the Eligible Activities that are within the scope of the Project. Only Eligible Expenditure related to those Eligible Activities will be reimbursed in accordance with Schedule 4 of this Funding Document. The Eligible Activities within the scope of the Project may be varied by agreement in writing between the Commonwealth and the Recipient.

Eligible Activity			Participating Employer				Eligible Activity Cost		
Provider Name	Description	Ref. Code	Name	Contribution Percentage	Cost Per Employee	Number Of Employees undertaking Activity	Participating Employer Contribution	Commonwealth Contribution	TOTAL
[e.g. RTO name]	[e.g. qualification name]	[e.g. qualification code]	[e.g. Small Beans Manufacturing]	[e.g. 25%]	\$	X	[GST Exclusive amount]	[GST Exclusive amount]	[GST Exclusive amount]
TOTAL						X	X		

3. Milestones (clauses 1.1 of the Supplementary Terms and 4.1(d))

[Insert any milestones for the Project.]

	Milestone	Due date
1.		
2.		
3.		
4.		
5.	Completion of the Project	

Schedule 3 – Reporting

[Below is the default reporting requirement for an Industry Skills Fund split payment grant. If you have negotiated alternative reporting requirements with the Recipient, this schedule should be modified to reflect the agreed reporting.]

1. Commencement report

- (a) The reporting period for the commencement report is the period starting on the Commencement Date and ending 30 days after the Commencement Date.
- (b) The Recipient must provide a commencement report no later than 14 days after the end of the reporting period.
- (c) The commencement report must be provided by the Recipient through SmartForm using the commencement report template in SmartForm, or in such other medium or format required by the Commonwealth.
- (d) The commencement report must include the following identifying information:
 - (i) the Recipient identifier (ABN); and
 - (ii) the Training to be undertaken in accordance with this Agreement.
- (e) The commencement report must include, for each Training that is an Eligible Activity:
 - (i) the number of Eligible Learners who have commenced the Training;
 - (ii) the number of Eligible Learners expected to complete the Training;
 - (iii) the number of Eligible Learners who have completed the Training;
 - (iv) the number of completing Eligible Learners by highest level of education attained prior to completion;
 - (v) the Unique Student Identifiers (USIs) of completing Eligible Learners;
 - (vi) all Eligible Expenditure on the Training;
 - (vii) a warranty that the Recipient has collected a privacy notice in the form required by the Commonwealth from each Eligible Learner that has completed Training, **during the reporting period**; and
 - (viii) any other information required by the Commonwealth's report template.

2. Final report

- (a) The reporting period for the final report is the period starting on the first day after the end of the preceding reporting period and ending on the date of completion of the Project.
- (b) The Recipient must provide the final report no later than 14 days after the end of the reporting period.
- (c) The final report must be provided by the Recipient through SmartForm using the progress report template in SmartForm, or in such other medium or format required by the Commonwealth.
- (d) The final report must include the following identifying information:

- (i) the Recipient identifier (ABN);
 - (ii) the Training that is an Eligible Activity to be undertaken in accordance with this Agreement; and
 - (iii) the aggregate number of Eligible Learners commenced/completed, expected completions and Eligible Expenditure reported in all preceding reports for each Training that is an Eligible Activity.
- (e) The final report must include, for each Training that is an Eligible Activity:
- (i) the number of Eligible Learners who have completed the Training;
 - (ii) the number of completing Eligible Learners by highest level of education attained prior to completion;
 - (iii) the USIs of completing Eligible Learners;
 - (iv) all Eligible Expenditure on the Training;
 - (v) a warranty that the Recipient has collected a privacy notice in the form required by the Commonwealth from each Eligible Learner that has completed Training, **during the reporting period;** and
 - (vi) any other information required by the Commonwealth's report template.

3. Independent audit report

- (a) The reporting period for the independent audit report is each financial year (ending on 30 June) and, where this Agreement commences on a date other than 1 July or expires or terminates on a date other than 30 June, such part of a financial year:
 - (i) during which Eligible Expenditure is incurred, Funds are reimbursed or any Other Financial Assistance is received by the Recipient; and
 - (ii) that occurs during the term of this Agreement.
- (b) The Recipient must provide an independent audit report no later than 30 days after the end of the relevant reporting period.
- (c) The independent audit report must be provided by the Recipient in such medium or format required by the Commonwealth.
- (d) The independent audit report must:
 - (i) be based on an independent audit of the eligibility of claimed Eligible Expenditure during the reporting period, through analysis of the Recipient's annual financial report, including:
 - (A) balance sheet;
 - (B) income statement;
 - (C) statement of changes in equity;
 - (D) cash flow statement;
 - (E) summary of accounting policies; and
 - (F) other explanatory notes,

- (ii) include confirmation as to whether Eligible Expenditure was incurred within three months of the end of the relevant period;
 - (iii) include evidence of payment of Eligible Activities to substantiate the final report; and
 - (iv) include identification of any risks which may impact the financial position of the Recipient and mitigation strategies;
- (e) The Recipient must ensure that an independent auditor, accredited by the Auditing and Assurance Standards Board, prepares the independent audit report and undertakes the independent audit upon which that report is based, in accordance with Commonwealth legislative requirements, Australian Auditing Standards and financial reporting standards.

4. Ad hoc reports

The Recipient must provide ad-hoc reports as required by the Commonwealth from time to time at the time and in the manner reasonably required by the Commonwealth.

Schedule 4 – Funds

1. Maximum Funds (clause 1.1 of the Supplementary Terms)

[The amount set out below should be the equivalent of the total Commonwealth Proportion of estimated Eligible Expenditure over the life of the Project as set out in the table in clause 2 of Schedule 2. Note that this is the maximum amount of Funds that the Commonwealth is liable to pay to the Recipient. If the Recipient incurs less Eligible Expenditure over the life of the Project than the amount agreed by the parties, the Commonwealth will not be required to pay the total amount below.]

The maximum amount of the Funds payable by the Commonwealth under this Agreement is [insert Australian dollar amount] (excluding GST).

2. Commonwealth Proportion

[In both of the clauses below, the appropriate percentage should be inserted according to business size of the Recipient or Consortium Member as determined on assessment of the funding application]:

- If the Recipient (or Consortium Member) is a micro business (0-4 FTE employees), insert “75%”.*
- If the Recipient (or Consortium Member) is a small business (5-19 FTE employees), insert “66%”.*
- If the Recipient (or Consortium Member) is a medium business (20-199 FTE employees), insert “50%”.*
- If the Recipient (or Consortium Member) is a large business (200+ FTE employees), insert “25%”.*

*[If the Recipient is **not** the Lead Organisation of a Consortium, insert the following:]*

The Commonwealth Proportion in relation to Eligible Expenditure on Eligible Activities is [insert] %.

[If the Recipient is the Lead Organisation of a Consortium, insert the following:]

The Commonwealth Proportion in relation to Eligible Expenditure on Eligible Activities incurred by each Consortium Member is as specified in the table below:

Consortium Member	Commonwealth Proportion
[insert name of Consortium Member]	[insert] % of Eligible Expenditure on Eligible Activities.
[insert name of Consortium Member]	[insert] % of Eligible Expenditure on Eligible Activities.
[insert name of Consortium Member]	[insert] % of Eligible Expenditure on Eligible Activities.
[insert name of Consortium Member]	[insert] % of Eligible Expenditure on Eligible Activities.

3. Payment (clauses 1.1 of the Supplementary Terms and 6)

- (a) Subject to the terms of this Agreement, the Commonwealth will pay Funds to the Recipient for the reimbursement of Eligible Expenditure on Eligible Activities within the scope of the Project in instalments following acceptance by the Commonwealth of the corresponding report.

Instalment	Milestone
First payment <i>must not exceed 70% of the amount specified in clause 1 of Schedule 4</i>	Acceptance by the Commonwealth of: <ul style="list-style-type: none"> the commencement report submitted by the Recipient in accordance with clause 1 of Schedule 3; evidence of payment of Eligible Expenditure on Training and Support Services during the reporting period covered by the commencement report.
Final payment <i>must be at least 30% of the amount specified in clause 1 of Schedule 4</i>	Acceptance by the Commonwealth of: <ul style="list-style-type: none"> the final report submitted by the Recipient in accordance with clause 2 of Schedule 3; the independent audit report for each Financial Year in accordance with clause 3 of Schedule 3; evidence of payment of Eligible Expenditure on Training and Support Services during the reporting period covered by the final report.

- (b) The amount of each instalment of Funds will be equal to the Commonwealth Proportion of Eligible Expenditure actually incurred by the Recipient on Eligible Activities within the scope of the Project during the reporting period to which the instalment relates, provided that the first payment must not exceed 70% of the amount specified in clause 1 of this Schedule 4.
- (c) If, because of clause 2(b) above, the Commonwealth does not pay a proportion of Funds claimed by the Recipient for reimbursement of Eligible Expenditure actually incurred by the Recipient on Training and Support Services during a reporting period, the Commonwealth may pay that proportion to the Recipient as part of the final payment.

4. Bank account (clause 8.4)

[If the bank account requirements differ from those in clause 8.4, state the correct requirements here. Otherwise insert 'No additional requirements'. For example, if the Recipient is not required to keep the Funds in a separate account, insert 'Clause 8.4(b) does not apply'.]

5. Invoicing requirements (clause 7.4)

In accordance with clause 7.4(b), the Recipient must not issue a tax invoice (or adjustment note) for or in respect of the supply, and the Commonwealth will issue a 'recipient created tax invoice' to the Recipient.

6. Payment period

The Commonwealth must make payment of an instalment of Funds within 30 days after completion of the relevant Milestone specified in clause 3 of this Schedule.

Schedule 5 – Consortium terms

This Schedule 5 applies only if the Recipient is the Lead Organisation of a Consortium.

1. Appointment and authority

- (a) The Recipient enters into this Agreement in its own right and as agent for each Consortium Member. The Recipient warrants that:
 - (i) it has been validly appointed as the agent of each Consortium Member to enter into and perform this Agreement;
 - (ii) it has the authority to enter into, and to exercise its rights and perform its obligations under, this Agreement in its own right and as agent of each Consortium Member; and
 - (iii) it has the authority in its own right and as agent of each Consortium Member to deal with the Commonwealth, and to make binding decisions, on behalf of each Consortium Member and all Consortium Members in relation to this Agreement.
- (b) Upon notification by the Commonwealth, the Recipient must provide evidence in writing satisfactory to the Commonwealth that the Recipient has the authority specified in clause 1(a) of this Schedule 5 including, if required by the Commonwealth, a statutory declaration by each Consortium Member stating that the Recipient has that authority in relation to the Consortium Member.

2. Obligations and liability of the Recipient and Consortium Members

- (a) The Recipient and each Consortium Member are jointly and severally liable for the performance of the Recipient's and each Consortium Member's obligations under this Agreement, and any obligation of, or acknowledgement, representation or warranty by, the Recipient binds the Recipient and the Consortium Members jointly and each of them severally.
- (b) The Commonwealth may, at its discretion, exercise each of its rights arising under or in connection with this Agreement against the Recipient or any one or more Consortium Members.
- (c) The Recipient must establish and maintain binding contractual arrangements between it and each Consortium Member requiring the Consortium Members to comply with, and to enable the Recipient to comply with, their obligations under this Agreement including:
 - (i) the specific roles and obligations of each Consortium Member in the performance of the Project and Eligible Activities in accordance with this Agreement;
 - (ii) information that must be collected and provided by each Consortium Member to the Recipient to facilitate compliance with the reporting requirements under Schedule 3;
 - (iii) each Consortium Member's obligations in relation to the use and repayment of the Funds; and
 - (iv) each Consortium Member's obligations to comply with requirements under this Agreement relating to record keeping, security, personal information, confidentiality, conflicts of interest, publicity and branding.

- (d) Each Consortium Member must comply with the obligations of the Recipient under this Agreement. For the avoidance of doubt, and without limiting this clause:
 - (i) the terms of this Agreement relating to use, reduction and repayment of Funds apply to each Consortium Member;
 - (ii) the rights of Commonwealth, the Auditor-General or its delegate, and the Australian Information Commissioner or its delegate, under clause 14 of the Supplementary Terms apply in relation to each Consortium Member;
 - (iii) each Consortium Member must maintain the insurance required under clause 7 of the Supplementary Terms; and
 - (iv) without limiting the Commonwealth's other rights, if a Consortium Member does not comply with a provision of this Agreement, the Commonwealth may terminate this Agreement under clause 16.2(a)(i) or 16.2(a)(iii) of the Supplementary Terms.
- (e) Unless the Commonwealth otherwise agrees in writing, any right a Consortium Member has against the Commonwealth under this Contract is only enforceable by the Recipient.

3. Distribution of Funds

- (a) For the avoidance of doubt, the amount of an instalment of Funds payable by the Commonwealth to the Recipient under clause 3 of Schedule 4 is the aggregate of the Commonwealth Proportion of Eligible Expenditure actually incurred by each Consortium Member on Eligible Activities during the reporting period to which the instalment relates, subject to the terms of this Agreement and the limitations specified in that clause.
- (b) The Recipient must ensure that Funds received by the Recipient from the Commonwealth are paid to each Consortium Member so that each Consortium Member receives Funds equal to the Commonwealth Proportion of Eligible Expenditure incurred by that Consortium Member in accordance with this Agreement.
- (c) A Consortium Member is not entitled to receive from the Recipient an amount of Funds exceeding the Commonwealth Proportion of Eligible Expenditure incurred by that Consortium Member in accordance with this Agreement.
- (d) The Recipient:
 - (i) and each Consortium Member acknowledge that the Commonwealth is not liable to pay Funds to any Consortium Member;
 - (ii) indemnifies the Commonwealth against any claim by a Consortium Member that it has not received Funds equivalent to the Commonwealth Proportion of Eligible Expenditure incurred by that Consortium Member in accordance with this Agreement, except to the extent that the claim arises from the Commonwealth's negligence or breach of this Agreement; and
 - (iii) must ensure that any Other Financial Assistance received by the Recipient from a provider of Eligible Activities, as defined in clause 5(a)(ii) of this Funding Document, is distributed to each Consortium Member pro-rata according to the applicable Commonwealth Proportion.

4. Governance and disputes

- (a) Clause 15 of the Supplementary Terms does not apply to a Dispute between the Recipient and a Consortium Member or to a Dispute between Consortium Members.

- (b) The Recipient must ensure that the Consortium establishes and maintains clear and well defined governance structures that attribute roles and responsibilities to individual Consortium Members.
- (c) The Consortium's governance structures should set out a formal dispute resolution mechanism as well as processes to deal with complaints between the Recipient and Consortium Members, and between Consortium Members themselves.
- (d) Disputes and complaints between the Recipient and a Consortium Member should be dealt with internally by the Consortium.

5. Variation of Consortium

Any variation to the membership of the Consortium, including the addition or release of a Consortium Member, is subject to the Commonwealth's prior written agreement (which will not be unreasonably withheld).

6. Replacement of Recipient as Lead Organisation

If, at any time, the Commonwealth is entitled to terminate this Agreement under clause 16.2 of the Supplementary Terms:

- (a) the Commonwealth may require the novation of this Agreement to another person acting as Lead Organisation of the Consortium and agent for each Consortium Member; and
- (b) the Recipient must do all things necessary to novate this Agreement to that person on the terms required by the Commonwealth.

Execution

- By checking this execution box, the Recipient accepts the Commonwealth's offer of Funds on the terms of this Agreement, and this Agreement will be binding on the Commonwealth and the Recipient.
- By checking the above execution box, the person named below accepts the terms and conditions of this Agreement and executes this Agreement as authorised representative of the Recipient, and warrants that:
- (a) they have read and understood each term in this Agreement (including the Supplementary Terms published by the Commonwealth at www.business.gov.au/IndustrySkillsFund and any other document referenced in this Agreement);
 - (b) they have read and understood the Programme Guidelines published by the Commonwealth at www.business.gov.au/IndustrySkillsFund; and
 - (c) they are duly authorised to execute this Agreement on behalf of the Recipient and the Recipient agrees to be bound by this Agreement (including the Industry Skills Fund, Long Form Supplementary Terms published by the Commonwealth at www.business.gov.au/IndustrySkillsFund and any other document incorporated by reference in this Agreement).

Details of authorised officer executing this Agreement on behalf of the Grantee:	
<i>Name of authorised officer:</i>	[To be completed by person executing]
<i>Position of authorised officer:</i>	[To be completed by person executing]
<i>Date of execution:</i>	[To be completed by person executing]