

FUNDING AGREEMENT

Between

Queensland Mental Health Commission (QMHC)

And

INSERT NAME OF ORGANISATION

Stronger Community Mental Health and Wellbeing Grants Program 2016-17

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THIS AGREEMENT is made

BETWEEN: **STATE OF QUEENSLAND**, acting through
Queensland Mental Health Commission
ABN 54163910717

AND: Name of Organisation
ABN Number of Organisation

1 Background

- 1.1 The *Queensland Mental Health, Drug and Alcohol Strategic Plan 2014-2019* (the Strategic Plan) aims to improve the mental health and wellbeing of Queenslanders.
- 1.2 The Queensland Mental Health Commission (QMHC) provides grants, through the Stronger Community Mental Health and Wellbeing Grants Program (the Grants Program), to enable organisations to implement innovative locally-led, collaborative initiatives that support the implementation of particular priorities under the Strategic Plan.
- 1.3 In 2016-17 the Grants Program seeks to support organisations to undertake initiatives that will:
 - (a) support social inclusion for those experiencing mental illness, mental health problems and problems related to alcohol and other drug use by fostering opportunities and removing barriers for individuals and groups to develop and maintain supportive relationships and a sense of community connection and connections to others,
 - (b) support community participation by providing opportunities and removing barriers to undertaking activities which are meaningful, engaging and which enhance feelings of confidence and self-worth, and
 - (c) improve the physical health of people living with mental illness through integrated, evidence-based community programs.
- 1.4 This Agreement outlines the conditions under which funding is provided to the recipient to deliver activities under the Grants Program.

2 Definitions and Interpretation

- 2.1 See attachment 1

3 Term

- 3.1 This Agreement will take effect from the date of signature of this Agreement and will remain valid to the Completion Date outlined in Schedule 1.

4 Consideration

- 4.1 The QMHC will pay the Funds to the Recipient in accordance with the funding schedule 2 in anticipation of the Recipient carrying out and completing the Project during the Term; and in accordance with this Agreement.

5 Recipient's Obligations

- 5.1 The Recipient must:

- (a) achieve each of the Milestones to the QMHC's reasonable satisfaction on or before the date each Milestone is due;
- (b) exercise due care and skill in carrying out all activities related to the Project and act in accordance with applicable professional ethics, principles and standards;
- (c) use the Funds only for purposes directly related to the Project;
- (d) while performing its obligations under this Agreement, comply with any Laws and applicable QMHC policies, subject to the QMHC giving notice of these policies and making them readily available to the Recipient;
- (e) act in good faith in its dealings with the QMHC in relation to this Agreement; and
- (f) comply with all applicable terms and conditions of the Program during the Term.

- 5.2 The Recipient confirms that it:

- (a) has read this Agreement;
- (b) has made proper investigations and enquiries into the Activities necessary for completing the Project; and
- (c) will cooperate with the QMHC by providing any information reasonably necessary for purposes related to this Agreement.

6 QMHC's Obligations

- 6.1 Subject to parliamentary appropriation and adequate funds being allocated to the QMHC for the funding purpose, and the terms of this Agreement, the QMHC agrees to:

- (a) pay the Funds to the Recipient in accordance with this Agreement, in the instalments described in Schedule 2; and
- (b) act in good faith in its dealings with the Recipient under this Agreement.

7 Conflicts

- 7.1 The Recipient warrants that to the best of its knowledge; and on and from the Commencement Date, it does not, and will not, have any undisclosed conflicts of interest that are connected with the Project.

- 7.2 The Recipient must take all reasonable steps to ensure that it does not engage in any Activity; or obtain any interest, that conflicts with, or adversely affects, the Recipient's ability to carry out the Project fairly and independently.

- 7.3 If any actual or potential conflict of interest arises during the Term, whether that be because of work intended to be undertaken by the Recipient for any third party or otherwise, the Recipient must notify the QMHC of:

- (a) the conflict of interest; and
- (b) any risks associated with the conflict,

and seek the QMHC's prior consent to carry out these Activities before their commencement.

8 Payment of Funds

8.1 Payment of the Funds, is conditional upon the Recipient:

- (a) achieving any Milestones on or before the relevant due date for each Milestone set out in Schedule 4;
- (b) using the Funds, along with any interest earned on those Funds, only for the purpose for which the Funds were provided;
- (c) lodging Payment Claims for payment of the Funds on the relevant Payment Date in Schedule 2 for each Payment Claim;
- (d) complying with its obligations under this Agreement as and when those obligations arise.

9 Repayment

If:

- (a) the Recipient does not meet a Milestone by the relevant due date;
- (b) the Recipient does not provide a Report by the relevant due date;
- (c) at any time the QMHC discovers the Recipient has breached its obligations under this Agreement, regardless of whether that breach is discovered before or after the Completion Date;
- (d) on the expiry or earlier termination of this Agreement, all or any part of the Funds has not been committed or spent in accordance with this Agreement; or
- (e) the QMHC discovers it has made an overpayment of all or any part of the Funds;

then in addition to any other right or remedy available to the QMHC, the QMHC may:

- (a) vary the amount and timing for the payment of all or any part of the Funds; or
- (b) require the Recipient to repay all or any part of the Funds, as a debt due and payable to the QMHC, at such times specified by the QMHC in any notice to the Recipient requiring re-payment of the Funds.

9.1 Despite any other provision in this Agreement, the QMHC, at its absolute discretion, may also withhold, reduce, seek repayment or cease payment of all or any part of the Funds if:

- (a) the QMHC becomes entitled to terminate this Agreement under clause 23;
- (b) the QMHC forms the view that full payment of the Funds is not necessary or required because of:
 - i surpluses or underspends in Funds spent on the Project;
 - ii additional monetary contributions the Recipient receives for the Project from external funding sources.

10 No Admission

Any payment made by the QMHC to the Recipient will not:

- (a) constitute an admission or acceptance by the QMHC that the Recipient has complied with this Agreement; or
- (b) release the Recipient from its obligations under this Agreement.

10.1 The QMHC is also under no obligation to provide future financial assistance in relation to the Project unless the QMHC, in its absolute discretion, determines otherwise.

11 Liability

11.1 The QMHC is not responsible and accepts no liability for:

- (a) any debts incurred by the Recipient;
- (b) any monies owed by the Recipient;
- (c) the payment of any funds over and above the Funds that may be needed for purposes related to the Project;
- (d) any cost overruns or overspends in relation to the Project; or
- (e) any other circumstances where the Recipient has insufficient funds to carry out Activities for the Project.

12 Payment Claims

12.1 The Recipient must give the QMHC a Payment Claim by the relevant Payment Date in Schedule 2.

12.2 Payment Claims must be where appropriate accompanied by a Progress Report and supported by evidence which confirms how Milestones relevant to the Payment Claim have been satisfied; and supported by a GST Compliant Invoice.

12.3 Within 14 days of receiving a Payment Claim, the QMHC may request further information about:

- (a) the Payment Claim;
- (b) any Report accompanying the Payment Claim; or
- (c) if the GST Compliant Invoice is a Tax Invoice provided by the Recipient, whether the Tax Invoice in support of the Payment Claim is correct.

12.4 The Recipient must promptly respond to any requests received under paragraph 12.3 by providing such information requested by the QMHC.

12.5 If a Tax Invoice provided by the Recipient is later found to be incorrect, the QMHC must notify the Recipient within 14 days of discovering that the Tax Invoice is incorrect.

12.6 If the Tax Invoice provided by the Recipient is correct, then subject to paragraph 12.2, the QMHC must pay the Payment Claim:

- (a) within 30 days of receiving that Payment Claim; or
- (b) if additional information is requested under paragraph 12.3, and the invoice is later found to be correct, within 30 days of receiving that additional information; or
- (c) if the invoice is incorrect under paragraph 12.5, within 30 days of receiving a correct Tax Invoice.

12.7 If the QMHC later determines that a paid Payment Claim has been incorrectly rendered by the Recipient, the QMHC may:

- (a) deduct the difference from any future invoices payable to the Recipient; or
- (b) recover the difference as a debt due and payable to the QMHC.

13 Use of the Funds

13.1 The Recipient must ensure the Funds, along with any interest earned on those Funds, are used solely for the Project and for no other purpose.

13.2 The Recipient must also ensure that:

- (a) all Funds are used for purposes related to carrying out Activities needed to complete the Project;
- (b) all payments out of the Funds are correctly made and are properly authorised;
- (c) adequate control is maintained over the incurring of liabilities for the Project; and
- (d) there is no misappropriation of, or dishonest dealings with, the Funds.

13.3 If the Recipient receives other funding besides the Funds for the Project:

- (a) from an external funding source; or
- (b) from the QMHC, or any other QMHC within the State of Queensland under an arrangement independent of this Agreement,

the Recipient must not:

- (c) transfer amounts between the Funds and other funding received for the Project; and
- (d) use the Funds for any purpose other than for a purpose authorised under this Agreement.

13.4 To remove any doubt, the QMHC:

- (a) is not responsible for providing any additional funding for the Project in excess of the Funds; and
- (b) will not be liable for such expenditure.

13.5 Any Funds which remain unallocated or unspent by the Recipient on the Completion Date or upon earlier termination:

- (a) must be repaid to the QMHC upon demand at such times specified in any notice from the QMHC requiring payment; and
- (b) may be recovered as a debt due and payable to the QMHC.

14 Reports

Progress Report

14.1 The Recipient must provide any Progress Reports on the relevant due date for each Report set out in Item 8 of Schedule 1 and Schedule 4.

14.2 Each Progress Report must be accompanied by:

- (a) a statement of income and expenditure for the Project for the period to which each Progress Report relates; and
- (b) copies of documentary evidence to confirm that any applicable Milestones, to be achieved before the date to which the Progress Report relates, have been satisfied.

Final Report

14.3 The Recipient must provide a Final Report for the Project within 30 days of the Completion Date. Guidelines for the Final Report are outlined in attachment 2

14.4 The Final Report must be accompanied by:

- (a) a statement of income and expenditure for the Project for the period immediately preceding the Completion Date; and
- (b) copies of documentary evidence to confirm that any applicable Milestones due before the Final Report have been satisfied.

15 Financial Records

15.1 The Recipient must keep the following records and information:

- (a) books of account and financial records which properly account for the receipt and expenditure of all the Funds for the Project;
- (b) source documents from which books of account and financial records under subparagraph (a) are prepared including tax invoices, receipts, credit notes and quotes;
- (c) any financial information that may be required to be supplied with any Report for the Project; and
- (d) proper administrative records and other documentation relevant to demonstrating completion of the Project.

15.2 To the best of its knowledge, the Recipient must also ensure that all records and information to which paragraph 15.1 applies:

- (a) are accurate; and
- (b) subject to any Law, are kept for a minimum of seven (7) years from the Completion Date.

15.3 The Recipient must provide copies to the QMHC of any of the records and information in clause 15.1 when requested by the QMHC from time to time.

16 Intellectual Property

16.1 Title to, and ownership of all Intellectual Property Rights in any New Material developed while undertaking the Project will be owned as follows:

- (a) any new material developed as a consequence of Activities undertaken during the Project will be owned jointly by the Agreement parties.
- (b) any new material developed by the QMHC will be owned by the QMHC.

16.2 This Agreement does not affect the ownership of Intellectual Property Rights in any Existing Material that is used in the course of developing New Material for the Project.

17 Confidential Information

17.1 Each party must ensure that Confidential Information belonging to the other party is kept confidential and is not used or disclosed to any person or for any purpose except when:

- (a) disclosure is needed for the performance of this Agreement;
- (b) disclosure is required by Law;
- (c) in the case of the QMHC, disclosure is reasonably necessary to comply with:
 - i. QMHC policies;
 - ii. any direction or instruction from the QMHC's Minister; or
 - iii. any other Queensland Government requirement;
- (d) the other party consents, subject to mutually agreeable terms and conditions;

- (e) disclosure is made to an adviser of the party under a professional relationship governed by an obligation of confidence;
- (f) the information is already readily available in the public domain or obtained from another source.

17.2 Each party must:

- (a) immediately notify the other party if it becomes aware of any breach of this clause;
- (b) immediately notify the other party if it is required to disclose Confidential Information under any Law;
- (c) upon receiving a request from the disclosing party, either during the Term or upon early termination or expiry of this Agreement, deliver or destroy all documents, records or files in its possession or control which contain Confidential Information in accordance with the disclosing party's instructions; and
- (d) if requested by the disclosing party, obtain from its officers, employees, agents and sub-contractors a deed of confidentiality.

17.3 For avoiding doubt, the Recipient warrants that all officers, employees, agents, contractors and sub-contractors of the Recipient involved in the Project will be bound by this clause.

18 Personal Information

18.1 This clause applies if:

- (a) the Recipient will in any way deal with Personal Information while undertaking the Project; or
- (b) the Project involves Activities undertaken by third parties on behalf of the Recipient who will deal with Personal Information.

18.2 The Recipient acknowledges that it is an agency under the *Information Privacy Act 2009* (Qld).

18.3 Unless authorised by Law, the Recipient must:

- (a) when undertaking the Activities for the Project, comply with parts 2 and 3 of Chapter 2 of the *Information Privacy Act 2009* as the Recipient was the QMHC;
- (b) ensure that Personal Information is protected against loss and against unauthorised access, use, modification, disclosure or other misuse;
- (c) not use Personal Information other than for the purposes directly related to performing the Activities for the Project;
- (d) not disclose Personal Information without the prior written consent of the QMHC;
- (e) not transfer any Personal Information outside of Australia without the prior written consent of the QMHC;
- (f) ensure that access to Personal Information belonging to the QMHC is restricted to those persons who require access in order to perform their duties under this Agreement;
- (g) ensure that its officers, employees, agents, contractors, sub-contractors comply with the same obligations imposed on the Recipient under this clause;
- (h) fully and promptly cooperate with the QMHC to enable the QMHC to respond to any applications or privacy complaints which require access to, or amendment of, a document containing a person's Personal Information;
- (i) immediately notify the QMHC if the Recipient becomes aware of any unlawful use or disclosure of Personal Information in its possession or control;

- (j) comply with such other privacy and security measures required by the QMHC as advised in writing from time to time; and
 - (k) if requested by the QMHC and upon the expiry or termination of this Agreement, promptly return or destroy any record, document or file which contains Personal Information in accordance with the QMHC's instructions.
- 18.4 If requested by a QMHC, the Recipient must obtain from its officers, employees, agents, contractors, sub-contractors a deed of privacy in a form acceptable to the QMHC.
- 18.5 The Recipient must immediately notify the QMHC upon becoming aware of any breach of this clause.

19 Insurances

- 19.1 The Recipient must ensure that it, or any persons performing Activities on its behalf for the Project, will hold and maintain for the term for the following insurances for the Term:
- (a) workers' compensation insurance under the *Workers' Compensation and Rehabilitation Act 2003 (Qld)*;
 - (b) public liability insurance valued at \$20 million per occurrence; and
 - (c) professional indemnity valued at \$20 million per occurrence.
- 19.2 The Recipient must on request promptly give the QMHC copies of any relevant Certificates of Currency for any insurances that are required under this clause.

20 Indemnity

- 20.1 To the fullest extent permitted by Law, the Recipient releases, indemnifies and keeps indemnified the QMHC for all Loss resulting from any Claim related to:
- (a) any act or omission which amounts to a breach of the Recipient's obligations under this Agreement;
 - (b) any unlawful act or omission connected with a Recipient's actual or attempted performance obligations under this Agreement;
 - (c) any neglect or default connected with the Recipient's actual or attempted performance of its obligations under this Agreement; and
 - (d) any actual or attempted exercise of rights under this Agreement by the QMHC as a result of the Recipient's neglect or default;

except to the extent that the QMHC's negligence contributed to the Loss that is the subject of the Claim.

21 Delay

Force Majeure

- 21.1 If the Recipient cannot meet any obligation under this Agreement because of a Force Majeure Event, the QMHC may extend all future Milestone dates and the Completion Date by a period equal to the period of delay, subject to the Recipient:
- (a) giving the QMHC written notice of the Force Majeure Event within 7 days of its occurrence along with other evidence demonstrating the existence of the Force Majeure Event;
 - (b) continuing to perform any obligations under the Agreement that are unaffected by the Force Majeure Event;
 - (c) using its best endeavours to overcome the effects of the Force Majeure Event as soon as possible; and

- (d) advising the QMHC that it is no longer affected by the Force Majeure Event as soon as Recipient becomes aware that it is no longer affected.

Other Delays

21.2 Where the Recipient is delayed in achieving a Milestone for any reason other than because of a Force Majeure Event, the Recipient must give the QMHC written notice explaining:

- (a) the reasons for the delay; and
- (b) the anticipated period for the delay,

as soon as it becomes aware the delay is likely occur and the QMHC, in its absolute discretion, may extend the Term or any other dates that have been affected by a period equal to the period of the delay.

22 Dispute Resolution

22.1 Under this clause, a dispute will have arisen when a party gives notice in writing to that effect to the other party.

22.2 The parties agree to work towards settling any dispute as follows:

- (a) by negotiation at first instance to be carried out in good faith; and
- (b) if an acceptable resolution cannot be achieved within 14 days, or such longer period if agreed by the parties, of commencing negotiations, by attending mediation with a mediator approved by the President of the Queensland Law Society. The costs of the mediator will be shared equally between the parties.

22.3 The giving of a notice by the QMHC under clause 23.1 cannot give rise to a dispute for the purposes of this clause.

23 Termination

23.1 The QMHC may terminate this Agreement by giving written notice to the Recipient if:

- (a) the Recipient or any third party involved in the Project breaches a material term of this Agreement that cannot be remedied, including those terms where time is of the essence;
- (b) the Recipient or any third party involved in the Project breaches any other term of this Agreement that is not remedied within 30 days of the Recipient receiving written notice about the breach;
- (c) the Recipient does not commence the Activities within the specified time;
- (d) any statement, representation or warranty made by the Recipient in its funding application is inaccurate, incomplete or incorrect to such an extent that it would have influenced the original decision to approve the Funds;
- (e) a Report given by the Recipient is significantly misleading, or substantially incomplete or inaccurate;
- (f) the Agreement is terminated because of an undisclosed conflict of interest under clause 7;
- (g) the Recipient or any third party involved in the Project does not comply with any of the insurance obligations under clause 19 of this Agreement;
- (h) the QMHC provides 30 days notice to the Recipient for any reason; or
- (i) the Recipient, or any Related Entity:
 - i. becomes bankrupt or insolvent;
 - ii. becomes subject to any form of external administration;

- iii. enters into an arrangement with its creditors or takes advantage of any Laws in force in connection with insolvent debtors; or
- iv. is wound up either voluntarily or involuntarily.

23.2 Upon this Agreement being terminated under paragraph 23.1 the Recipient must:

- (a) immediately suspend dealing with all or any part of the Funds in its possession or control; and
- (b) only deal with the Funds in accordance with the directions given by the QMHC.

23.3 Termination of this Agreement will not:

- (a) affect any claim or action either party may have against the other by reason of any prior breach of this Agreement; or
- (b) relieve either party of any obligation under this Agreement which survives its early termination or expiry.

24 Public Acknowledgement

24.1 The Recipient must use its best endeavours to acknowledge that the QMHC has contributed Funds towards the Project when it is reasonable and practical to do so by mentioning the QMHC in:

- (a) official correspondence and announcements;
- (b) annual reports;
- (c) research reports; and
- (d) other materials;

produced by the Recipient for the public domain.

25 Legal Relationship

The relationship of the parties under this Agreement is not an employment relationship between the parties.

26 Assignment and Novation

26.1 The Recipient must not assign or novate all or any part of its rights under this Agreement without the QMHC's prior consent, to be granted in the QMHC's absolute discretion

27 Changes in Corporate Control

27.1 For any change in corporate control:

- (a) the Recipient must immediately notify the QMHC of any proposed change of a Substantial Interest; and
- (b) seek the QMHC's consent for any proposed change in the Substantial Interest, which is not to be unreasonably withheld.

27.2 The Recipient acknowledges that any actual or proposed change in corporate control that is undertaken in a way that is inconsistent with paragraph 27.1 will be a material breach of this Agreement.

28 Governing Law

28.1 This Agreement is governed by the laws of Queensland and each party irrevocably and unconditionally submits to the exclusive jurisdiction of the courts in that State.

29 Severability

- 29.1 If any part of this Agreement is determined to be invalid, unlawful or unenforceable for any reason, then to the full extent permitted by law:
- (a) the offending provision will be severed from the rest of the Agreement; and
 - (b) the remaining terms and conditions will continue to be valid and enforceable.

30 Variation

- 30.1 This Agreement may only be varied by way of a deed of variation that is signed by both parties.

31 Costs

- 31.1 Each party agrees to pay their own costs associated with the negotiation, preparation and execution of this Agreement.

32 Entire Agreement

- 32.1 This Agreement constitutes the entire agreement between the parties and supersedes all prior negotiations, arrangements, written or oral, and agreements between them.
- 32.2 By entering into this Agreement, the Recipient confirms that they have not relied on any additional statement, representation, warranty or condition that is:
- (a) outside of this Agreement; or
 - (b) imposed by the QMHC,
- in connection with the subject matter of this Agreement.

Schedule 1 – Initiative Particulars

Items	Description
1. Initiative Title	Insert Initiative Title Here
2. Recipient	Insert Recipient Organisation Name Here
3. Commencement Date	Insert Commencement Date Here
4. Completion Date	Insert Completion Date Here
5. Term	From sign off to Date of Completion
6. Funds	\$ Insert Dollar Amount (GST exclusive)
7. Deliverable	See Schedule 4
8. Progress Reports	A Progress Report is submitted to the QMHC by 31 January 2017.
9. Final Report	A Final Report is to be submitted by 20 business days of the completion date
10. Other Insurances	Not Applicable
11. New Material	Not Applicable
12. Notices	<p>Recipient Contact Officer: Name Email Phone Number Postal Address</p> <p>Client Contact Officer: Anita Cowlshaw anita.cowlshaw@qmhc.qld.gov.au 3033 0333 PO Box 13027 George St QLD 4003</p>
13. Special Conditions	Not applicable

Schedule 2 – Funding

The Grant Funding will be paid within 20 business days of the QMHC receiving an appropriate GST compliant invoice. Funding will be provided to support the implementation of the project as outlined below.

Budget from successful applications to be inserted here

Schedule 3 – Reporting

(See paragraph 14 of the agreement for details)

Progress Reports – A Progress Report is to be submitted to the QMHC by 31 January 2017.

Final Reports – A final report is to be submitted within 20 business days of the completion date (see Schedule 1 Clause 4).

Statement of Income and Expenditure – A statement of income and expenditure must accompany both the Progress Report and Final Report and should reflect income and expenditure for the period of those reports.

Where an underspend is declared, QMHC will review and advise the required action in accordance with Clause 9.1 of this agreement.

(Reporting templates will be provided at Attachment 2)

Schedule 4 – Project

Information on project to be inserted here once successful applications chosen

Signature

Executed as a deed by the Parties on the dates set out below:

SIGNED for and on behalf of the **STATE**)
OF QUEENSLAND acting through)
QUEENSLAND MENTAL HEALTH COMISSION by) **(Signature)**

Dr Lesley van Schoubroeck)
Mental Health Commissioner)

a duly authorised person, in the presence of:)/...../.....
(Date)

.....
(Signature of Witness)

SIGNED for and on behalf of the **RECIPIENT**)
) **(Signature)**
)

a duly authorised person, in the presence of:)/...../.....
(Date)

.....
(Signature of Witness)

Attachment 1 – Definitions and interpretations

1 The following definitions apply to this Agreement:

- (a) **Activity:** means any task, activity, services, work or other purpose to which the funding relates.
- (b) **Agreement:** means this funding deed and all schedules and attachments to it, and any documents incorporated by reference into this document.
- (c) **Business Day:** means any day that is not a Saturday, Sunday or public holiday in Brisbane, Queensland and the place where the Recipient operates their principal place of business.
- (d) **Claim:** includes, and is not limited to, any claim, action, demand, application, proceeding, judgment, enforcement hearing and enforcement order.
- (e) **Commencement Date:** means the commencement date in Item 3 of Schedule 1.
- (f) **Completion Date:** means the completion date in Item 4 of Schedule 1.
- (g) **Confidential Information:** means any information which by its nature is confidential, is received on the understanding that it is confidential, or is marked as being confidential. Confidential Information includes:
 - i. information about clinical processes, policies and procedures, commercial operations, financial arrangements or affairs of the QMHC;
 - ii. the terms of this Agreement;
 - iii. information which identifies or relates to patients and staff; and
 - iv. Records,but does not include:
 - v. information that is publicly known for reasons other than as a result of the Recipient's breach of this Agreement; or
 - vi. any information that is received by the Recipient through a third party and which is not governed by an obligation of confidence.
- (h) **Existing Material:** means any material which contains Intellectual Property Rights that were in existence before the commencement date.
- (i) **Final Report:** means a report:
 - i. in the form in Schedule 3, or such other form as nominated by the QMHC from time to time; and
 - ii. which is to be provided by the date in Item 9 of Schedule 1.
- (j) **Force Majeure Event:** means an act, omission, cause or circumstances outside a party's reasonable control including without limitation, fire, storm, earthquake, explosion, accident, enemy acts, war, sabotage, labour dispute and act or omission of a third party.
- (k) **Funds:** means the amount of the funds set out in Item 1 of Schedule 1.
- (l) **GST:** means goods and services tax imposed through GST Law.
- (m) **GST Law:** means *A New Tax System (Goods and Services Tax) Act 1999* (Cth), any regulations passed under that Act or any rulings or determinations made by the Australian Tax Office about its interpretation.

- (n) **GST Compliant Invoice:** depending on the circumstances means a Tax Invoice or a Recipient Created Tax Invoice in accordance with GST Law.
- (o) **Intellectual Property Rights:** means all registered and unregistered rights in Australia and throughout the World for:
- i. copyright;
 - ii. trade or service marks;
 - iii. designs;
 - iv. patents;
 - v. semiconductors or circuit layouts;
 - vi. source codes and object codes;
 - vii. trade, business or company names;
 - viii. indications of source or appellations of origin;
 - ix. trade secrets;
 - x. know-how and confidential information;
 - xi. the rights to registration of any of the above; and
 - xii. the right to bring an action for infringement of any of the above;
- but excludes Moral Rights.
- (p) **Law:** means any applicable:
- i. common law; or
 - ii. Federal, State or Local Gov statute, regulation, ordinance that is in force.
- (q) **Loss:** includes, and is not limited to:
- i. any loss, liability, tax, prohibition, penalty, fine, expense, injury or damage to persons or property; and
 - ii. all costs, including legal costs on an indemnity basis, that are reasonably and properly incurred by the QMHC.
- (r) **Milestones:** means the milestones listed in Item 9 of Schedule 1.
- (s) **Moral Rights:** has the meaning given to it in sect 189 of the *Copyright Act 1968*.
- (t) **New Material:** means Intellectual Property Rights in materials which come into existence through the performance of the Activities under this Agreement.
- (u) **Payment Claim:** means a claim for payment submitted by the Recipient to the QMHC in accordance with clause 9.
- (v) **Personal Information:** means information or an opinion, including information or an opinion forming part of a database, whether true or not and whether recorded in a material form or not, about an individual whose identity is apparent or can reasonably be ascertained, from the information or opinion.
- (w) **Program:** means the Stronger Community Mental Health and Wellbeing Grants Program 2016-17, the terms of which are outlined in the Application Guidelines.
- (x) **Progress Report:** means the progress reports that are to be completed by the Recipient:

- i. in the form in Schedule 3, or such other form as advised by the QMHC from time to time; and
 - ii. at intervals in Item 8 of Schedule 1,
- and may include financial reports and other information relevant to the Project
- (y) **Project:** means the initiative as described in Item 1 of Schedule 1.
 - (z) **QMHC:** means the State of Queensland acting through the Queensland Mental Health Commission, and as the context requires, includes any officers, employees, agents and contractors of Queensland Mental Health Commission.
 - (aa) **Recipient:** means the Recipient as described in Item 2 of Schedule 1, and as the context requires, includes officers, employees, agents, contractors and sub-contractors of the Recipient.
 - (bb) **Records:** means all material including books, documents, information, computer software, equipment, and data stored by any means disclosed, or made available in connection with the performance of this Agreement.
 - (cc) **Related Entity:** means any body corporate that is a related entity within the meaning of section 50AA of the *Corporations Act 2001* (Cth).
 - (dd) **Reports:** means any report that is required to be completed by the Recipient under this Agreement including Progress Reports and the Final Report.
 - (ee) **Special Conditions:** means the conditions listed in Item 13 of Schedule 1.
 - (ff) **Substantial Interest:** means a legal or beneficial interest that is 50% or greater.
 - (gg) **Term:** means the term in Item 5 of Schedule 1, including any extension provided for under clause 3.1.

2 In this Agreement, unless the context otherwise requires:

- (hh) words importing a gender include any other gender;
- (ii) words in the singular include the plural and vice versa;
- (jj) all dollar amounts refer to Australian currency;
- (kk) where the Recipient includes more than one party, this agreement binds all Recipients jointly and severally;
- (ll) a reference to any legislation includes any subordinate legislation made under it and any legislation amending, consolidating or replacing it;
- (mm) a reference to an individual or person includes a corporation, authority, association, joint venture whether incorporated or unincorporated, partnership, trust or other legal entity;
- (nn) a reference to a document including this Agreement is to that document as varied, novated, ratified or replaced from time to time;
- (oo) a reference to “notice” or “notify” means written notice or notification;
- (pp) a reference to “consent” means prior written consent;
- (qq) a reference to “includes” in any form is not a word of limitation;
- (rr) clause headings have been included for convenience only and are not intended to affect the meaning or interpretation of this Agreement;
- (ss) if any expression is defined, other grammatical forms of that expression will have corresponding meanings; and
- (tt) if there is any inconsistency between:

- i. the operative provisions in this Agreement; and
- ii. any schedules, attachments to the operative provisions or any document incorporated into the Agreement,

the operative provisions in this Agreement will prevail to the extent of any inconsistency.

Attachment 2 – Progress Report, Final Report, Statement of Income and Expenditure Templates

Reporting templates to be inserted here once approved.